

09:27AM

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH BONGIOVANNI,

Defendant.

Case No. 1:19-cr-227
(LJV)

August 28, 2024

TRANSCRIPT EXCERPT - EXAMINATION OF LOUIS SELVA - DAY 2
BEFORE THE HONORABLE LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

APPEARANCES:

TRINI E. ROSS, UNITED STATES ATTORNEY
BY: JOSEPH M. TRIPI, ESQ.
NICHOLAS T. COOPER, ESQ.
CASEY L. CHALBECK, ESQ.

Assistant United States Attorneys
Federal Centre, 138 Delaware Avenue
Buffalo, New York 14202
For the Plaintiff

SINGER LEGAL PLLC

BY: ROBERT CHARLES SINGER, ESQ.
80 East Spring Street
Williamsville, New York 14221
And

LAW OFFICES OF PARKER ROY MacKAY

BY: PARKER ROY MacKAY, ESQ.
3110 Delaware Avenue
Kenmore, New York 14217

And

OSBORN, REED & BURKE, LLP

BY: JOHN J. GILSENAN, ESQ.
120 Allens Creek Road
Rochester, New York 14618
For the Defendant

PRESENT:

BRIAN A. BURNS, FBI Special Agent
MARILYN K. HALLIDAY, HSI Special Agent
KAREN A. CHAMPOUX, USA Paralegal

LAW CLERK:

REBECCA FABIAN IZZO, ESQ.

COURT DEPUTY CLERK: JENNIFER L. VERNEN

COURT REPORTER: ANN MEISSNER SAWYER, FCRR, RPR, CRR
Robert H. Jackson Federal Courthouse
2 Niagara Square
Buffalo, New York 14202
Ann_Sawyer@nywd.uscourts.gov

* * * * *

(Excerpt commenced at 9:37 a.m.)

(Jury seated at 9:37 a.m.)

THE COURT: Good morning, everyone.

ALL PARTIES: Good morning.

THE COURT: The record will reflect that all of our
jurors, again, are present.

I remind the witness that he's still under oath.

And, Mr. Tripi, you may continue.

MR. TRIPI: Thank you, Your Honor.

L O U I S S E L V A, having been previously duly called and
sworn, continued to testify as follows:

(CONT'D) DIRECT EXAMINATION BY MR. TRIPI:

Q. Good morning, Mr. Selva.

A. Good morning.

Q. Just to set the scene where we left off yesterday, you
had just finished describing your initial conversation with
the defendant where you made the offer to him for \$2,000 per

1 month. He -- he was reluctant, and said he would have your
2 back, that the conversation was between you and he. And you
3 left off saying you wanted to talk with Mike and Ron; is that
4 right?

5 A. Correct.

6 Q. That's where we left off yesterday? Okay.

7 After that discussion with the defendant, did you leave
8 that discussion thinking you would eventually or ultimately
9 be able to convince him to accept the bribe payments?

10 A. Yes, eventually.

11 Q. Why were you confident?

12 A. Just the trust factor that we had in each other, our
13 relationship.

14 Q. After that discussion with the defendant, did you go back
15 to Masecchia and relay to him your conversation that you had
16 had with this defendant?

17 A. I did, yes.

18 Q. What did you -- what did you tell Masecchia and what did
19 he respond?

20 A. I told him he's reluctant and hesitant in doing it. But
21 I'm gonna set up another meeting, and I'm sure that he'll
22 agree to it.

23 Q. What did -- what did Masecchia contribute to that
24 discussion, if anything?

25 A. He just -- same thing, he reiterated the figure that was

25 Q. You remember it was a bar at least?

09:41AM 1 A. It was a bar, I believe.

09:41AM 2 Q. Describe that next meeting with the defendant to discuss
09:41AM 3 further this \$2,000 per month retainer.

09:41AM 4 A. Again, I told him I talked to Ron and Mike regarding what
09:41AM 5 was proposed. If he'd give it any thought, how it can help
09:41AM 6 him get through the situation he's involved in with his
09:41AM 7 finances.

09:41AM 8 Q. What did you mean by that? What were you referencing,
09:41AM 9 the situation with his finances?

09:42AM 10 A. Well, with his expenses, his divorce, and those expenses
09:42AM 11 and living expenses and all the expenses he's been incurring.

09:42AM 12 Q. Please continue with the discussion. Go ahead.

09:42AM 13 A. Explained that. And he -- he -- eventually he agreed.

09:42AM 14 Q. Did you have to do some persuading during the discussion?

09:42AM 15 A. Yes.

09:42AM 16 Q. What did you say?

09:42AM 17 A. I kept highlighting how it could help. How this
09:42AM 18 additional money could help -- help him get through a rough
09:42AM 19 time. And it will be consistent every month.

09:42AM 20 Q. What did he say in agreeing to do it?

09:42AM 21 A. He agreed. He was hesitant, but he agreed. He says,
09:42AM 22 okay. We'll meet once a month. That was gonna be with Mike.
09:42AM 23 And he would keep an eye. He would make sure things were
09:43AM 24 okay. It was gonna start.

09:43AM 25 Q. Did you tell him what type of information that you would

09:43AM 1 want provided?

09:43AM 2 A. Yes.

09:43AM 3 Q. What did you tell him?

09:43AM 4 A. If there was any investigations, if anybody was hot or
09:43AM 5 followed, if anyone had been busted that had mentioned names.
09:43AM 6 Anything pertaining to what was going on.

09:43AM 7 Q. What do you mean by if there were any investigations,
09:43AM 8 like, elaborate for the jury so they understand.

09:43AM 9 A. If somebody was hot or under investigation by a different
09:43AM 10 agency, or his agency, or whatever. I mean, if somebody's
09:43AM 11 name had come up, just to be aware of that.

09:43AM 12 Q. What do you mean by if someone's name had come up?

09:43AM 13 A. The names that I had mentioned, Ron, Mike, myself, in our
09:44AM 14 group.

09:44AM 15 Q. When you say "our group," are you referencing the other
09:44AM 16 people that you referenced the other day?

09:44AM 17 A. Yes. Yes. Yes.

09:44AM 18 Q. Did you express to him whether you were interested in
09:44AM 19 learning about if there were any informants that were talking
09:44AM 20 about members of the group?

09:44AM 21 A. Yes.

09:44AM 22 Q. What did you say in that regard?

09:44AM 23 A. I said if you have any information on informants that are
09:44AM 24 working with agencies, that would be very helpful so we can
09:44AM 25 get a heads-up.

09:44AM 1 Q. What did he say to each of those categories of
09:44AM 2 information and help?

09:44AM 3 A. He said he would do his best or have his eyes open. And
09:44AM 4 going forward, he'll be aware of it and let us know.

09:44AM 5 Q. Was there a plan that you had discussed with Masecchia
09:45AM 6 about what you would do if the defendant notified you that in
09:45AM 7 fact there was an investigation into your group or into the
09:45AM 8 area?

09:45AM 9 A. If the defendant -- could --

09:45AM 10 Q. Was there a plan that you had discussed with Masecchia
09:45AM 11 about what you would do if the defendant came back and said,
09:45AM 12 hey, you guys are under investigation, what was the plan?

09:45AM 13 A. Yes. Get rid of everything right away, all the evidence,
09:45AM 14 break everything down, break all contact.

09:45AM 15 Q. With each other?

09:45AM 16 A. With each other. Any burner phones that he had -- Mike
09:45AM 17 had quite a few burner phones, him and Ron, get rid of those,
09:45AM 18 get rid of all the --

09:45AM 19 Q. What would you do with the grow operation?

09:45AM 20 A. Destroy it.

09:45AM 21 Q. How?

09:45AM 22 A. We would go out there and physically remove it, cut it
09:45AM 23 down. Get rid of everything.

09:45AM 24 Q. When the defendant told you he was agreeable to the
09:45AM 25 \$2,000 per month, was there further conversation with regard

09:46AM 1 to how frequent the payments would be?

09:46AM 2 A. Yes, once a month. And that would be through Mike.

09:46AM 3 Q. Describe that part of the discussion that the payments

09:46AM 4 would come through Mike.

09:46AM 5 A. Ron was paying Mike. So Mike had said I'll reach out

09:46AM 6 once a month, and I'll meet him at a location, undisclosed

09:46AM 7 location that they agreed upon, and he would pay him in cash.

09:46AM 8 Q. And you explained that to the defendant?

09:46AM 9 A. Yes.

09:46AM 10 Q. What did the defendant say about taking the cash receipt,

09:46AM 11 receiving the cash payments from Masecchia?

09:46AM 12 A. He was fine with it. It was going to be a brief meeting.

09:46AM 13 Q. Did you discuss with the defendant who the ultimate

09:46AM 14 source of the money was?

09:46AM 15 A. Yes.

09:46AM 16 Q. What did you tell him?

09:46AM 17 A. I told him it's coming from Ron Serio, who is the top of

09:46AM 18 this thing. He's been cashing us out and providing the cash

09:46AM 19 for this.

09:47AM 20 Q. Was there a discussion between you and the defendant

09:47AM 21 about what you -- your role with him would be moving forward?

09:47AM 22 A. Just to meet once a month, get together, see how things

09:47AM 23 are going, if anything's happening. So --

09:47AM 24 Q. What do you mean by see how things are going, if

09:47AM 25 anything's happening?

09:47AM 1 A. If there are any investigations, anyone's hot, anyone's
09:47AM 2 been busted, that type of thing.

09:47AM 3 Q. When were the payments from Masecchia to the defendant
09:47AM 4 sourced by Ron Serio to be made every month? Was it near the
09:47AM 5 beginning of the month, do you know?

09:47AM 6 A. I don't recall. Maybe the middle of the month. I -- I
09:47AM 7 don't recall.

09:47AM 8 Q. Was there a set day when you would meet with the
09:47AM 9 defendant each month or did it --

09:47AM 10 A. No.

09:47AM 11 Q. -- happen --

09:47AM 12 A. It usually happened after that, I would meet with him.
09:47AM 13 We'd get together. And then Ron and Mike would coordinate
09:47AM 14 the payments and that arrangement was made.

09:47AM 15 Q. So the defendant would meet and have discussions with you
09:48AM 16 monthly, and meet separately with Masecchia for the payments?

09:48AM 17 A. Briefly, yes.

09:48AM 18 Q. Were all meetings in person?

09:48AM 19 A. I believe so, yes.

09:48AM 20 Q. Was everything you did with Masecchia in person?

09:48AM 21 A. Yes.

09:48AM 22 Q. Did you provide the defendant with a way to contact
09:48AM 23 Masecchia or did you provide Masecchia with a way to contact
09:48AM 24 the defendant so they could coordinate?

09:48AM 25 A. I provided Masecchia a way. I gave him the defendant's

1 number, because he was using different burner phones.

2 Q. What do you mean by a "burner phone?"

3 A. A burner phone is a prepaid phone you buy, it has

4 minutes, and then when you're done with it, you kind of throw

5 it out so to speak. It has no use after that, unless you

6 reload the minutes, but there's no account name on it.

7 Q. Masecchia used a lot of those different burner phones?

8 A. Yes.

9 Q. Were you privy to the actual times and locations that

10 Masecchia and the defendant met to exchange money?

11 A. No. No. That was between them.

12 Q. Did you know those meetings were happening though?

13 A. Yes. Mike would tell me.

14 Q. I'll get to this in a little bit more detail later on,

15 but over time, did the defendant complain he wanted more

16 money from the group?

17 A. Eventually.

18 Q. Did that confirm for you the defendant was getting the

19 money each month from Masecchia?

20 A. Yes.

21 Q. When you discussed this initial payment scheme with

22 Masecchia, did he tell you why he would be the one handling

23 the money drops to the defendant?

24 A. Ron had paid him. And then Mike -- that was just Mike,

25 he just handled all the cash and anything to do with it, he

09:50AM 1 wanted to handle it. There was no specific reason.

09:50AM 2 Q. By this point, are you fully aware that Mike Masecchia is

09:50AM 3 a made guy?

09:50AM 4 A. Yes.

09:50AM 5 Q. Was Ron Serio a made guy?

09:50AM 6 A. No.

09:50AM 7 Q. Did that give Masecchia some status in the organization?

09:50AM 8 A. Yes.

09:50AM 9 Q. What was your agreement with the defendant, how you would

09:51AM 10 coordinate the monthly meetings to meet up for information

09:51AM 11 exchanges?

09:51AM 12 A. Reach out to him, we'd meet out -- it was a brief

09:51AM 13 conversation: How's everything going? Everything okay?

09:51AM 14 Anything we should be concerned about? Any investigations?

09:51AM 15 Anyone that's been busted? That's it. Just brief overview.

09:51AM 16 Q. And what would the defendant typically say?

09:51AM 17 A. Everything's okay.

09:51AM 18 Q. And then you would carry on with your evening and talk

09:51AM 19 about other things?

09:51AM 20 A. That's it. It was a brief conversation.

09:51AM 21 Q. When the defendant would meet with Masecchia exchanging

09:51AM 22 the money, did that provide them an opportunity to meet as

09:51AM 23 well?

09:51AM 24 A. Yes.

09:51AM 25 Q. Why were your set meetings once a month?

09:52AM 1 A. That's how Ron wanted to do it. He said he wanted to pay
09:52AM 2 once a month.

09:52AM 3 Q. So the way it was set up was Serio provides 2,000 a month
09:52AM 4 to Masecchia, right?

09:52AM 5 A. Yes.

09:52AM 6 Q. Masecchia pays the defendant?

09:52AM 7 A. Yes.

09:52AM 8 Q. And you and the defendant meet separately for updates?

09:52AM 9 A. Correct.

09:52AM 10 Q. In the context of the defendant meeting with you for the
09:52AM 11 updates, did you have a further conversation with the
09:52AM 12 defendant about Masecchia's status?

09:52AM 13 A. No. He was aware of it. Didn't come up much.

09:52AM 14 Q. I guess what I'm asking you is, was there a reason that
09:53AM 15 the meetings for information in the sit-downs would be with
09:53AM 16 you as opposed to Masecchia?

09:53AM 17 A. No. He knew of Mike's status. Basically, that was
09:53AM 18 really Mike's doing. He wanted to get together and make sure
09:53AM 19 the payment was there, pay him directly.

09:53AM 20 Q. My question -- did you believe it would be less
09:53AM 21 conspicuous for the defendant to meet with you monthly versus
09:53AM 22 Masecchia because of Masecchia's status?

09:53AM 23 A. Yes.

09:53AM 24 Q. Okay. That's what I'm asking.

09:53AM 25 A. Yes.

1 Q. Can you explain that part for the jury?

2 A. Yes. Him and Mike would meet at undisclosed locations.

3 So not to meet with me would kind of, like, leave me out of
4 the equation so to speak.

5 Nobody would see us together, figuring out or looking at
6 us like there was being cash or whatever. I don't know what
7 was -- we don't know what was going on, but it just was the
8 agreement that was made.

9 Q. Was Masecchia high profile in the neighborhood?

10 A. He was.

11 Q. Did the defendant want to be seen with Masecchia in
12 public a lot?

13 A. Not a lot.

14 Q. Okay. Was that one of the reasons why you were meeting
15 with him to see what was going on?

16 A. Yes.

17 Q. At that point, who were the people that you were aware of
18 that knew that cash was going to be paid from Serio to
19 Masecchia to the defendant?

20 A. Who knew?

21 Q. Yeah. As of that point in time, who did you -- who were
22 you aware of that knew about this setup?

23 A. The parties that were involved: Myself, Mike, Ron and the
24 defendant.

25 Q. As -- as these meetings started to happen and time

09:55AM 1 started go on, were there times when Masecchia would mention
09:55AM 2 something to you that he discussed with Bongiovanni?
09:55AM 3 A. No. It was just basically the handoff of what was being
09:55AM 4 paid and that was it.
09:55AM 5 Q. Were there times when Bongiovanni mentioned Mike in
09:55AM 6 discussions with you?
09:55AM 7 A. Yes.
09:55AM 8 Q. Just generally?
09:55AM 9 A. Yes. Yes. Yes.
09:55AM 10 Q. Did the fact there were times that they were talking
09:55AM 11 about one another confirm for you they were meeting?
09:55AM 12 A. Yes.
09:55AM 13 Q. Approximately how long in terms of number of years were
09:56AM 14 the payments at the \$2,000-per-month level?
09:56AM 15 A. From, like, 2008, '9, to '11, '12, right around there,
09:56AM 16 three or four years.
09:56AM 17 Q. I think you've previously estimated about two years, are
09:56AM 18 you estimating all times?
09:56AM 19 A. I'm estimating, yes, sir.
09:56AM 20 Q. What's your best estimate, would you say?
09:56AM 21 A. Between two to three years.
09:56AM 22 Q. What happened to the amount of monthly payments after
09:56AM 23 that time?
09:56AM 24 A. It was proposed to go up because their operation was
09:56AM 25 expanding.

09:56AM 1 Q. So the amount increased?

09:56AM 2 A. Yes.

09:56AM 3 Q. As time went on, did the defendant say things to you
09:57AM 4 about the -- his value to your group?

09:57AM 5 A. Yes.

09:57AM 6 Q. What types of things did the defendant say to you over
09:57AM 7 time?

09:57AM 8 A. The information he's bringing. The different agencies
09:57AM 9 they have in contact with.

09:57AM 10 Q. Like what, be specific, if you can.

09:57AM 11 A. Like if the operation -- I mentioned to him that the
09:57AM 12 operation was growing, it was about ready to grow. And it's
09:57AM 13 gonna start expanding from different areas. And, therefore,
09:57AM 14 there's going to be different information needed, because
09:57AM 15 it's going to be transported through different venues --
09:57AM 16 trucking, New York City runs, that type thing.

09:57AM 17 So we would need more information from different, like,
09:57AM 18 other agencies were involved.

09:57AM 19 Q. Did you -- did you tell the defendant about specific
09:57AM 20 methods of transportation for narcotic -- for marijuana
09:57AM 21 distribution?

09:57AM 22 A. I did.

09:58AM 23 Q. What did you -- be specific. What did you tell them?

09:58AM 24 A. It was coming -- let me explain the areas: It was coming
09:58AM 25 from British Columbia, Canada, and New York, and there was

1 going to be trucking, and there was going to be
2 transportation from New York to Buffalo.

3 We were gonna be driving, Ron and Mike. So they just
4 needed to make sure that things were okay when they were
5 traveling and moving it.

6 Q. You explained all that to the defendant?

7 A. Yes.

8 Q. What did he say about his ability to keep a lookout for
9 the transportation angle?

10 A. He said he'll do his best. He'll keep a watchful eye on
11 it. And if something unusual happened, he would let us know.

12 Q. In that context, did the defendant start indicating to
13 you he wanted more money?

14 A. Yes.

15 Q. What was he saying?

16 A. Because the operation is expanded and I'm giving more
17 information through different agencies, the figure has to
18 increase, and then it did.

19 Q. What did the figure go up to?

20 A. \$4,000 a month.

21 Q. Describe when the -- when the defendant indicated that
22 he'd like more money, what conversations did you have with
23 Masecchia or Serio? Explain that for the jury.

24 A. I told Ron and Mike that it was brought up that --
25 because you're asking for more, they're -- he's -- the

09:59AM 1 defendant's asking for more money, and the value it's

09:59AM 2 bringing. And they understood that.

09:59AM 3 Because as this thing expanded, it was a more wider

09:59AM 4 range. So they agreed to it. They understood the -- they

09:59AM 5 understood.

09:59AM 6 Q. By that point, you indicated there were trips happening

09:59AM 7 back and forth from the New York City area?

09:59AM 8 A. There were, yes.

09:59AM 9 Q. Were there trucks coming across the country?

10:00AM 10 A. There were, from British Columbia, Canada, I believe. Or

10:00AM 11 I'm sorry, yes, from California. I'm sorry, British Columbia

10:00AM 12 is Canada. California and British Columbia.

10:00AM 13 Q. So there were trucks coming from California, as well as

10:00AM 14 through Canada?

10:00AM 15 A. Yes, my mistake.

10:00AM 16 Q. California, as well as through Canada?

10:00AM 17 A. Yes.

10:00AM 18 Q. As those operations were expanding, were Mike and Ron

10:00AM 19 having more concerns about their exposure?

10:00AM 20 A. They were. Because obviously it's getting bigger, it's

10:00AM 21 going through different state lines, from a different

10:00AM 22 country, obviously, the risk is going to be a little higher.

10:00AM 23 So they were very interested in more information and being

10:00AM 24 accurate.

10:00AM 25 Q. Over that initial two to three year initial period before

10:00AM 1 this dollar amount is negotiated to be higher, okay, by that
10:01AM 2 point, had the defendant been generally providing information
10:01AM 3 that there were no investigations?
10:01AM 4 A. Yes.
10:01AM 5 Q. Did he -- did he ever get specific to you about how he
10:01AM 6 was protecting the group and looking out?
10:01AM 7 A. He knew the players, and he would just be aware if
10:01AM 8 anything was going on -- if their names were brought up. If
10:01AM 9 anyone was busted that had mentioned their names, that type
10:01AM 10 thing. Any informant that had mentioned their names.
10:01AM 11 Q. Based on your discussions with the defendant, do you
10:01AM 12 believe he had a lot of access to law enforcement
10:01AM 13 information?
10:01AM 14 A. Yes.
10:01AM 15 Q. When -- how did you communicate to the defendant that
10:01AM 16 Serio and Masecchia were -- were agreeable to paying more
10:02AM 17 money and that it would be \$4,000 per month? Can you
10:02AM 18 describe that conversation with the defendant?
10:02AM 19 A. Yes. I reached out to him. We had met for a drink, and
10:02AM 20 I explained that because the operation is expanded and
10:02AM 21 they're asking more, the amount would be \$4,000. And it was
10:02AM 22 agreed upon. So --
10:02AM 23 Q. Was one other law enforcement agency that Masecchia
10:02AM 24 specifically was -- indicated he was concerned about, was it
10:02AM 25 a federal agency formerly known as ICE?

10:02AM 1 A. Yes, Mike brought that up. He was concerned about that.

10:02AM 2 Q. Did you relay that to the defendant?

10:02AM 3 A. I did. And I'm not familiar with what ICE does.

10:02AM 4 Q. Do you understand ICE to be affiliated with or now

10:02AM 5 Homeland Security?

10:02AM 6 A. Yes, now.

10:03AM 7 Q. Did Mike and Ron also want to know whether any phones

10:03AM 8 were being tapped?

10:03AM 9 A. They did.

10:03AM 10 Q. Did they want to make sure that nobody was on to their

10:03AM 11 New York City travels?

10:03AM 12 A. They did, yes.

10:03AM 13 Q. Did they want to make sure there were no informants in

10:03AM 14 the group?

10:03AM 15 A. They did.

10:03AM 16 Q. Did you relay all of that to the defendant?

10:03AM 17 A. I did.

10:03AM 18 Q. Did he agree to look out for all of that?

10:03AM 19 A. Yes.

10:03AM 20 Q. As time went on, did the defendant ever comment to you,

10:03AM 21 if you recall, about whether Serio was making a lot of money

10:03AM 22 or anything about Serio's finances that you recall?

10:03AM 23 A. No. No.

10:03AM 24 Q. Were you also generally aware that Serio was someone who

10:04AM 25 had access to and distributed cocaine on occasion?

1 A. I was aware of it, yes.

2 Q. Now we talked a little bit about the defendant's end of
3 his relationship with Melissa and then the beginning of his
4 relationship with Lindsay yesterday; do you remember that?

5 A. Yes.

6 Q. So my question to you is in the context of these prices
7 that are being renegotiated. By the time the defendant is
8 renegotiating to get \$4,000 per month, at that point had he
9 taken on financial obligations related to his then-girlfriend
10 now-wife Lindsay?

11 A. He did.

12 Q. Okay. Can you describe -- describe for the jury the
13 financial obligations that the defendant had taken on with
14 respect to his then-girlfriend now-wife Lindsay.

15 A. They had moved in together from Lovering. And she was a
16 full-time nursing student. And her focus was school and
17 taking care of her son, so I don't believe she was working.

18 And the focus of all the financial obligations would be
19 met with the defendant. So that was more -- quite a bit more
20 money.

21 Q. What did he tell you he was going to pay for as it
22 related to Lindsay moving in with him?

23 A. Living expenses -- I don't know her arrangement with
24 school, but if she needed any help with that. Any type of
25 medical expenses. Anything that she would need.

1 Q. How old was her son at the time?

2 A. He was a -- I don't know.

3 Q. Was he young?

4 A. He was young.

5 Q. Was the defendant paying for him as well?

6 A. I don't believe so.

7 Q. Okay. Did the defendant indicate he was paying all the
8 bills?

9 A. Yes.

10 Q. Did the defendant still have financial obligations
11 related to his child support and financial obligations
12 related to his daughter, Chelsea?

13 A. Yes.

14 Q. Did the defendant start to complain less, over time,
15 about his finances as he was accepting bribes?

16 A. Yes.

17 Q. Do you believe the cash bribes he was receiving helped
18 him take on the additional financial burdens related to
19 Lindsay and her son?

20 A. I --

21 **MR. SINGER:** Objection, speculation.

22 **THE COURT:** Sustained. Sustained. The jury will
23 strike that question and answer.

24 **BY MR. TRIPI:**

25 Q. Did the defendant seem less stressed out about his

10:07AM 1 finances while Lindsay and his son -- her son are moving in?

10:07AM 2 A. Less stressed out.

10:07AM 3 Q. Yeah. During that time period, was he -- as he's getting

10:07AM 4 bribes and he's taking on Lindsay and her son --

10:07AM 5 A. Yes.

10:07AM 6 Q. -- was he expressing less stress?

10:07AM 7 A. Yes, because of the additional income that was coming in.

10:07AM 8 Q. What was his social life like?

10:07AM 9 A. At that time, they were just starting going out. They

10:07AM 10 would go to dinners, go out. They had a social life, very

10:07AM 11 active social life.

10:07AM 12 Q. Did you know them to go for dinners?

10:08AM 13 A. Yes.

10:08AM 14 Q. Did you know them to go for drinks?

10:08AM 15 A. Yes.

10:08AM 16 Q. Did you know the defendant to like nice clothes?

10:08AM 17 A. Yes.

10:08AM 18 Q. Did you know Lindsay to like nice clothes?

10:08AM 19 A. Yes.

10:08AM 20 Q. Did you know the defendant to like watches?

10:08AM 21 A. Yes.

10:08AM 22 Q. What type of watches was the defendant interested in?

10:08AM 23 A. Invictas, Rolex.

10:08AM 24 Q. What type of watch is an Invicta watch?

10:08AM 25 A. It's a big, thick -- they range in price from -- it's a

10:08AM 1 broad range from either 300 to thousands of dollars. It's

10:08AM 2 just a bigger, like, diver watch. A real big thick watch.

10:08AM 3 Q. Do you own one?

10:08AM 4 A. Yes.

10:08AM 5 Q. How much was yours?

10:08AM 6 A. 300. And then -- I have two --

10:08AM 7 Q. Is yours a lower end or higher end?

10:08AM 8 A. -- I have three of them. They are in the medium range.

10:08AM 9 Q. How many did the defendant have, if you have know?

10:08AM 10 A. I don't recall.

10:08AM 11 Q. Did he have nicer ones or worse ones than you?

10:08AM 12 A. No, he had nicer ones. Much better than mine.

10:08AM 13 Q. Did you know him to buy a Rolex as well?

10:09AM 14 A. I believe so, yes.

10:09AM 15 Q. Is that a more expensive watch than an Invicta?

10:09AM 16 A. Yes, quite a bit.

10:09AM 17 Q. Is a Cadillac Escalade an expensive vehicle?

10:09AM 18 A. Very.

10:09AM 19 Q. Did he and Lindsay go on trips?

10:09AM 20 A. They did.

10:09AM 21 Q. Where did they travel to, as far as you know?

10:09AM 22 A. Florida, Vegas, maybe New York.

10:09AM 23 Q. Meaning New York City?

10:09AM 24 A. Yes, sir.

10:09AM 25 Q. Where did the defendant like to shop for his clothes?

10:09AM 1 A. High-end mens shops. I mean I --

10:09AM 2 Q. Did he have a friend who happened to own a high-end men's

10:09AM 3 shop that he hung out with?

10:09AM 4 A. Yes. It was actually his brother-in-law at the time.

10:09AM 5 Q. Who was that?

10:10AM 6 A. Napoli's Men's Shop.

10:10AM 7 Q. Is that someone you and the defendant have used cocaine

10:10AM 8 with as well?

10:10AM 9 A. Yes.

10:10AM 10 Q. Are the clothes in Napoli's expensive?

10:10AM 11 A. Yes, sir.

10:10AM 12 Q. Did the defendant like to shop there?

10:10AM 13 A. Yes.

10:10AM 14 Q. Did he shop at other high-end men's shops as well?

10:10AM 15 A. Yes.

10:10AM 16 Q. After he started taking bribes, did he buy the Lovering

10:10AM 17 house from his parents?

10:10AM 18 A. I don't recall. That might have been before. I'm not

10:10AM 19 quite sure.

10:10AM 20 Q. After he started taking bribes, did he buy another

10:10AM 21 residence at 85 Alder Place?

10:10AM 22 A. Yes.

10:11AM 23 Q. When the defendant would go out with you and others, did

10:11AM 24 you go out with him?

10:11AM 25 A. Yes.

10:11AM 1 Q. Did you go to bars in groups?

10:11AM 2 A. On occasion, yes.

10:11AM 3 Q. Do you know Gassan Rizek?

10:11AM 4 A. Yes.

10:11AM 5 Q. Is he someone who would go out to bars with you and the

10:11AM 6 defendant?

10:11AM 7 A. Not with me, but he was part of the defendant's group,

10:11AM 8 yes.

10:11AM 9 Q. Would you be present?

10:11AM 10 A. Yes, a few times, yes.

10:11AM 11 Q. How was Gassan Rizek related to the defendant?

10:11AM 12 A. I believe their girlfriends were friends. Gassan's wife

10:11AM 13 now, I believe.

10:11AM 14 Q. And we talked about Tom Napoli, was he in the defendant's

10:11AM 15 group?

10:11AM 16 A. He was. He was his brother-in-law at the time, well,

10:11AM 17 future brother-in-law at the time.

10:11AM 18 Q. Who did Mr. Napoli marry that made him the defendant's

10:11AM 19 brother-in-law?

10:11AM 20 A. He married his wife's sister.

10:11AM 21 Q. What's her name?

10:11AM 22 A. Ashley.

10:11AM 23 Q. And is her maiden name Schuh?

10:12AM 24 A. Yes.

10:12AM 25 Q. And we've talked yesterday about Tom Doctor. Is he

10:12AM 1 someone who would hang out on occasion and go to bars with
10:12AM 2 the defendant when you were present?

10:12AM 3 A. On occasion, yes.

10:12AM 4 Q. Based on your interactions, were those individuals that
10:12AM 5 we just talked about, have you been present with them and the
10:12AM 6 defendant when they were using cocaine?

10:12AM 7 A. Yes.

10:12AM 8 Q. On those occasions, was the defendant participating in
10:12AM 9 the cocaine use?

10:12AM 10 A. Yes.

10:12AM 11 Q. Were you -- were you at the defendant's wedding --

10:13AM 12 A. Yes.

10:13AM 13 Q. -- to his wife, Lindsay?

10:13AM 14 A. Yes.

10:13AM 15 Q. Where was that wedding?

10:13AM 16 A. It was in Cabo San Lucas, Mexico.

10:13AM 17 Q. And was that in or about February of 2015?

10:13AM 18 A. It was.

10:13AM 19 Q. So this is after the bribes had been being paid for years
10:13AM 20 by that point, right?

10:13AM 21 A. Yes.

10:13AM 22 Q. Who paid for the wedding?

10:13AM 23 A. I believe the defendant did.

10:13AM 24 Q. Were you the best man at that wedding?

10:13AM 25 A. Yes.

10:13AM 1 Q. Did you and the defendant and a group of the guys we just
10:13AM 2 talked about use cocaine at that wedding?
10:13AM 3 A. Yes.
10:13AM 4 Q. Describe that circumstance.
10:13AM 5 A. There was a -- it was a resort, and it was a nightclub,
10:14AM 6 and we were getting ready to go out, down to it. And cocaine
10:14AM 7 was there, and we did it. We --
10:14AM 8 Q. Who procured the cocaine? Who had it?
10:14AM 9 A. Tom had it.
10:14AM 10 Q. Tom -- last name?
10:14AM 11 A. Napoli. And then I got it from someone at the hotel. So
10:14AM 12 we all -- there was -- it was around.
10:14AM 13 Q. Who were the guys -- where were you using it in a room?
10:14AM 14 A. Yes.
10:14AM 15 Q. Who were the guys using it?
10:14AM 16 A. Myself, the defendant, Tom Napoli, and I believe Tom
10:14AM 17 Doctor.
10:14AM 18 Q. What did the defendant say about hiding the usage?
10:14AM 19 A. He didn't want to do it in public, so that's why we did
10:14AM 20 it in the room and just kind of keep it low key.
10:14AM 21 Q. Can you estimate the total number of times that you were
10:15AM 22 present and either observed or did cocaine with the defendant
10:15AM 23 while he was a DEA agent?
10:15AM 24 A. Five to ten.
10:15AM 25 Q. And that's an estimate?

10:15AM 1 A. It's an estimate.

10:15AM 2 Q. That includes at the wedding in Mexico?

10:15AM 3 A. Yes.

10:15AM 4 Q. Where were some of the other locations that you remember

10:15AM 5 the defendant using cocaine in a social situation?

10:15AM 6 A. Being out one time at the Curtiss Hotel. Other time --

10:15AM 7 at Tom Doctor's, he had a cottage in Angola.

10:15AM 8 Q. Is that near a bar named Mickey Rats?

10:16AM 9 A. It is.

10:16AM 10 Q. Curtiss Hotel, that's a hotel in downtown Buffalo here?

10:16AM 11 A. Yes.

10:16AM 12 Q. They have, like, a rooftop bar?

10:16AM 13 A. Yes.

10:16AM 14 Q. Is that where you were?

10:16AM 15 A. Yes.

10:16AM 16 Q. Was there another bar you and the defendant used to go to

10:16AM 17 at times called Mother's?

10:16AM 18 A. Yes.

10:16AM 19 Q. Where's that?

10:16AM 20 A. It's in the Buffalo -- in the Virginia Alley.

10:16AM 21 Q. Did you and the defendant know a bartender who worked

10:16AM 22 there?

10:16AM 23 A. We did, yes.

10:16AM 24 Q. Who was that person?

10:16AM 25 A. At that time, it was Robert Missana.

10:16AM 1 Q. First name Robert, you said?

10:16AM 2 A. Robert. Robert Missana.

10:16AM 3 Q. Did you know Robert Missana to be someone who distributed

10:16AM 4 cocaine over the bar at times?

10:16AM 5 A. At times.

10:16AM 6 Q. Was there an occasion you were there with the defendant

10:16AM 7 when you were standing next to the defendant where Missana

10:16AM 8 was selling cocaine over the bar?

10:17AM 9 A. Yes.

10:17AM 10 Q. Did you observe it?

10:17AM 11 A. Yes.

10:17AM 12 Q. Was the defendant standing right next to you?

10:17AM 13 A. Yes.

10:17AM 14 Q. Did he jump over the bar and arrest Missana?

10:17AM 15 A. No.

10:17AM 16 **MR. SINGER:** Objection.

10:17AM 17 **THE COURT:** I'm sorry?

10:17AM 18 **MR. SINGER:** Objection, form.

10:17AM 19 **MR. TRIPI:** What's wrong with the form?

10:17AM 20 **THE COURT:** Overruled. Overruled.

10:17AM 21 **BY MR. TRIPI:**

10:17AM 22 Q. No?

10:17AM 23 A. No, no. No.

10:17AM 24 Q. How did you and the defendant know Robert Missana?

10:17AM 25 A. From growing up. He's within our age group. He's our

10:17AM 1 age. So through the years, just friends with him.

10:17AM 2 Q. In the run up to the defendant's wedding, were you guys
10:17AM 3 going out to bars more, like, with the people who would be
10:17AM 4 going to the destination wedding?

10:17AM 5 A. A few times.

10:17AM 6 Q. Was there a night at SoHo on Chippewa where there was
10:17AM 7 some cocaine use?

10:17AM 8 A. There was.

10:17AM 9 Q. Can you describe that situation?

10:18AM 10 A. Yes. A group at that party had met. I had met them.

10:18AM 11 And I had had it, and we went into the bathroom and -- in the
10:18AM 12 stall, and we did a -- we did a blast of cocaine.

10:18AM 13 Q. Who is "we?"

10:18AM 14 A. Myself, the defendant, and then there was the other
10:18AM 15 parties that were involved, too. Not with me.

10:18AM 16 Q. Who was that?

10:18AM 17 A. I believe Tom Doctor and Tom Napoli, too, on that
10:18AM 18 occasion.

10:18AM 19 Q. Handing up Government Exhibit 127 for identification
10:19AM 20 purposes at this point.

10:19AM 21 Mr. Selva, is that a photograph?

10:19AM 22 A. Yes.

10:19AM 23 Q. Are there multiple people in the photograph?

10:19AM 24 A. There are.

10:19AM 25 Q. You're not in that photograph, are you?

10:19AM 1 A. I am not.

10:19AM 2 Q. Do you recognize several of the people in the photograph?

10:19AM 3 A. Yes, a few, yes.

10:19AM 4 Q. Do you see the defendant there?

10:19AM 5 A. Yes.

10:19AM 6 Q. Do you see his wife Lindsay in the photo?

10:19AM 7 A. Yes.

10:19AM 8 Q. Do you see Peter Gerace in the photo?

10:19AM 9 A. Yes.

10:19AM 10 Q. Do you see Tom Doctor in the photo?

10:19AM 11 A. Yes.

10:19AM 12 Q. You mentioned a moment ago that you were the best man at

10:19AM 13 the wedding?

10:19AM 14 A. Yes.

10:19AM 15 Q. About five months or so after the wedding, did you -- did

10:20AM 16 you have a Twitter account that you sent some pictures of the

10:20AM 17 wedding out on?

10:20AM 18 A. Yeah, I did.

10:20AM 19 Q. I'm going to show you Government Exhibit 213-1 through

10:20AM 20 213-5, inclusive.

10:20AM 21 Flip through those, if you can. When you're done, look

10:20AM 22 up.

10:20AM 23 Do you recognize Exhibits 213-1 through 213-5 inclusive?

10:20AM 24 A. I do, yes.

10:20AM 25 Q. What do you recognize those to be?

1 A. Those are pictures from the party at the wedding and
2 those who attended.

3 Q. And are those pictures that you tweeted out in the May
4 following the February wedding?

5 A. Yes.

6 Q. Do they fairly and accurately depict pictures you took
7 and tweets that you made about the wedding?

8 A. Yes.

9 **MR. TRIPI:** The government offers Exhibits 213-1
10 through 5, Your Honor.

11 **MR. SINGER:** No objection.

12 **THE COURT:** They are received without objection.

13 **(GOV Exhibits 213-1 thru 5 were received in evidence.)**

14 **MR. TRIPI:** Ms. Champoux, if we could just publish
15 those for the jury. Starting 213-1, please.

16 Looks a little darker on the screen.

17 Ms. Champoux, can you zoom in on the top photo?
18 Maybe see if that lightens it up?

19 **BY MR. TRIPI:**

20 Q. Who's that a photo of?

21 A. Myself and the defendant.

22 Q. Where are you guys?

23 A. That's I believe on a booze cruise in Cabo.

24 Q. So there were some excursions that occurred during that
25 wedding?

10:21AM 1 A. Yes.

10:21AM 2 Q. How long were you guys there?

10:21AM 3 A. I think a few hours.

10:21AM 4 Q. In terms of in Cabo, total?

10:22AM 5 A. Oh. Four days, five days.

10:22AM 6 Q. Were there -- were there several excursions that you went

10:22AM 7 on?

10:22AM 8 A. No.

10:22AM 9 Q. Just one booze cruise?

10:22AM 10 A. That, and then there was a lot of activities at the

10:22AM 11 resort. We hung out by the pool. There was a nightclub

10:22AM 12 there.

10:22AM 13 Q. Do you know who paid for the booze cruise?

10:22AM 14 A. I don't. I'm not sure. I thought we all pitched in.

10:22AM 15 Q. Okay.

10:22AM 16 A. Okay.

10:22AM 17 **MR. TRIPI:** Okay. We can zoom out of that one.

10:22AM 18 Let's go to 213-2.

10:22AM 19 **BY MR. TRIPI:**

10:22AM 20 Q. Looks very similar. In the bottom photo, is that you

10:22AM 21 with the gray suit on?

10:22AM 22 A. Yes.

10:22AM 23 **MR. TRIPI:** Let's go to 213-3, please.

10:22AM 24 **BY MR. TRIPI:**

10:22AM 25 Q. All right. That top photo there, can we zoom in on that?

1 A. That's the wedding party.

2 Q. And from left to right, can you just go through everybody
3 who's in the photo?

4 A. Sure. Tom Napoli, the defendant, myself, and Lindsay's
5 son, Matty.

6 Q. That's the child we were discussing earlier?

7 A. Yes.

8 **MR. TRIPI:** We can zoom out of that one. Let's go to
9 213-4.

10 **BY MR. TRIPI:**

11 Q. Is that the defendant and his wife in the top photo
12 there?

13 A. Yes.

14 Q. And that's his -- Lindsay Schuh became Lindsay
15 Bongiovanni?

16 A. Yes.

17 **MR. TRIPI:** Let's go to 213-5.

18 **BY MR. TRIPI:**

19 Q. And again, there's a photo down at the bottom there,
20 who's in that picture?

21 A. That's myself and the maid of honor, who was Lindsay's
22 sister.

23 Q. Which sister?

24 A. Not Ashley. I'm drawing a blank -- Christie, I'm sorry.

25 Q. That's okay.

10:24AM 1 **MR. TRIPI:** We can take that down, Ms. Champoux.

10:24AM 2 **BY MR. TRIPI:**

10:24AM 3 Q. Yesterday and a little bit today we talked about

10:25AM 4 Masecchia and you learning -- confirming what you'd long

10:25AM 5 believed that he was a member of Italian Organized Crime; do

10:25AM 6 you remember that?

10:25AM 7 A. Yes.

10:25AM 8 Q. About what year was it when you had the conversation with

10:25AM 9 him -- you know, so, you testified you got involved in around

10:25AM 10 '08, '09. How much time went by before you got comfortable

10:25AM 11 enough to specifically ask him the question?

10:25AM 12 A. Right around 2011, '12, three or four years as we were

10:25AM 13 into this we got more comfortable with one another, we became

10:25AM 14 closer.

10:25AM 15 It might have been even a little longer than that. I

10:25AM 16 don't exactly recall.

10:25AM 17 But as our relationship evolved, we just became closer,

10:25AM 18 and I felt -- I felt comfortable asking that question.

10:25AM 19 Q. So you had believed it for a long time, but you --

10:25AM 20 A. Yes.

10:25AM 21 Q. -- after some years, you asked him that question?

10:25AM 22 A. Correct.

10:25AM 23 Q. And after you had it confirmed, you relayed it to the

10:26AM 24 defendant?

10:26AM 25 A. Yes.

1 Q. That basically what we thought for a long time is
2 accurate?

3 A. Yes. According to Mike -- I mean, that's what Mike had
4 told me.

5 Q. Describe the conversation you had with Mike.

6 A. I asked him. We were out, and I says, you know, this has
7 been on my mind for a long time, there's a lot of
8 speculation. People say -- Mike was a big guy, he had a very
9 strong presence.

10 And I just asked him, I says, you know, people are
11 fearful of you, and they hear things on the street. Are you
12 connected?

13 And he told me he was. He told me he was a made guy.

14 Q. Did he tell you who he was with? Did he reference
15 Butchie Bifulco at all?

16 A. Yes, he did.

17 Q. What did he say?

18 A. He said that he was very close with Butchie because of
19 the relationship with his father. His father and Butchie,
20 like I said yesterday, were very close. And Butchie was a
21 very prominent figure. So, they had become very close.

22 Q. Did you or Masecchia use the term soldier in that
23 discussion?

24 A. No.

25 Q. But the term "made guy"?

10:27AM 1 A. Yes.

10:27AM 2 Q. Okay. And to you, "made guy" meant he was a member of
10:27AM 3 the organization?

10:27AM 4 A. Correct.

10:27AM 5 Q. As the conspiracy wore on, did there come a point in time
10:27AM 6 when Masecchia made a comment to you that he needed to,
10:27AM 7 quote, kick up money he was making?

10:28AM 8 A. He did, yes.

10:28AM 9 Q. What was the context of that discussion?

10:28AM 10 A. He said that he had people to answer to. As this thing
10:28AM 11 grew, as he was making money, that he to pay people as well.
10:28AM 12 And he referenced -- he referenced --

10:28AM 13 **MR. SINGER:** Your Honor, I'm going to object at this
10:28AM 14 time as to relevance.

10:28AM 15 **THE COURT:** Yeah, I agree. Do you want to come up?

10:28AM 16 **MR. TRIPI:** Yeah, sure, Judge.

10:28AM 17 (Sidebar discussion held on the record.)

10:28AM 18 **THE COURT:** I thought I made it clear pretrial this
10:28AM 19 was not going to be a case about organized crime. And now
10:28AM 20 we're getting into the inner workings of organized crime.
10:28AM 21 This has nothing to do with the defendant's knowledge of this,
10:28AM 22 unless you're gonna link this to a conversation he has with
10:28AM 23 the defendant.

10:28AM 24 **MR. TRIPI:** Well, I think I -- just to back up, we
10:29AM 25 went this far at the last trial, so I haven't exceeded where

1 we went last time, just so you're aware.

2 **THE COURT:** That's okay.

3 **MR. TRIPI:** This is as far as I can go with him
4 because this is as far as he knows in terms of the
5 conversation, but --

6 **THE COURT:** What's the relevance of Masecchia having
7 to kick upstairs that we need to hear this time?

8 **MR. TRIPI:** Well, this defendant -- or, this witness
9 has explained that he's relayed Masecchia's status to the
10 defendant. So that goes to the -- to the knowledge --

11 **THE COURT:** Absolutely.

12 **MR. TRIPI:** -- and the awareness --

13 **THE COURT:** Absolutely.

14 **MR. TRIPI:** And I think there has to be some context
15 for -- it's important enough for this defendant -- it has to
16 be a significant enough conver -- I keep saying defendant, for
17 this witness, it has to be a significant enough piece of
18 information the jury has to assess is this something that
19 Mr. Selva would bother to tell the defendant.

20 **THE COURT:** Um-hum.

21 **MR. TRIPI:** And, so, that is kind of a memorable line
22 when you've -- if you follow my train of logic for a moment,
23 Judge, he's thinks he's a made guy for a long time. He
24 finally gets comfortable enough to ask him. Masecchia
25 confirms it. And then later on says I need to kick up.

1 All of those things, if you bundle them together, may
2 lead a jury to conclude, yeah, okay, I believe that testimony
3 that it was important enough for the defendant to relay the
4 actual status and confirm it to defendant.

5 So that's as far as I'm going, and that was my train
6 of logic.

7 **THE COURT:** And I understand what you're saying. But
8 I think the "I need to kick up" doesn't add anything to the
9 story, and I think that's irrelevant, so I'm going to sustain
10 the objection to that.

11 **MR. TRIPI:** Well, "kick up" came out already. I'm
12 not going any further than that.

13 **THE COURT:** Fine.

14 **MR. SINGER:** It's consistent with the same objection
15 you sustained last time, Judge. We've got kick up --

16 **MR. TRIPI:** "Kick up" came in. It's page 96 of the
17 transcript.

18 **THE COURT:** Say it again.

19 **MR. SINGER:** We had "kick up" come in.

20 **MR. TRIPI:** Yes.

21 **MR. SINGER:** Thereafter, I objected. You sustained
22 the objection, and moved on after that. So --

23 **THE COURT:** That's fine.

24 **MR. TRIPI:** That's where we are.

25 **THE COURT:** So you're fine with it where it is right

10:31AM 1 now?

10:31AM 2 **MR. SINGER:** Well, it's where I've made my objection,
10:31AM 3 Judge.

10:31AM 4 **THE COURT:** Okay.

10:31AM 5 **MR. SINGER:** So at this point, I think the issue is
10:31AM 6 done.

10:31AM 7 **THE COURT:** So I will sustain the objection, and we
10:31AM 8 can move on.

10:31AM 9 **MR. TRIPI:** Yeah. I wasn't --

10:31AM 10 **THE COURT:** Mr. Singer? Are you asking me to strike
10:31AM 11 the "kick up?"

10:31AM 12 **MR. TRIPI:** Well, Judge, that came in last time. I
10:31AM 13 haven't gone further.

10:31AM 14 **THE COURT:** Which is why I'm asking --

10:31AM 15 **MR. SINGER:** I would prefer, Judge, that "kick up"
10:31AM 16 gets struck. My understanding of the previous ruling was that
10:31AM 17 it remained in, but --

10:31AM 18 **THE COURT:** It did remain in the last time?

10:31AM 19 **MR. SINGER:** That's -- that's what I understood.

10:31AM 20 **MR. TRIPI:** It's at page 96 of that transcript.

10:31AM 21 **THE COURT:** Okay. Fine. Then we'll leave it as it
10:31AM 22 is.

10:31AM 23 (End of sidebar discussion.)

10:31AM 24 **THE COURT:** The objection is sustained.

10:31AM 25 You can move on to the next question.

BY MR. TRIPI:

Q. All right. So regarding the marijuana operation, you've described it earlier that the operation was expanding. We've talked about trucks. And by "trucks," did you mean tractor-trailers?

A. Tractor-trailers.

Q. Not pickup trucks?

A. No, tractor-trailers.

Q. Trips to New York City, right?

A. Yes.

Q. But did the organization also use storage locations to store marijuana?

A. They did.

Q. In fact, one of those storage locations was at your house for a period of time; is that right?

A. It was. For a short period of time, yes.

Q. Was that in or about 2014?

A. Yes.

Q. Can you describe how you started to store some of the organization's -- Mr. Serio's marijuana at your house?

A. As he got it in from his distribution point, he had reached out to me and asked me if I can keep it in your basement in bins, secured, until I could distribute it.

And I said sure. And he did that.

It was kept in my basement. I had a back room in my

10:33AM 1 basement, and it was in there in bins.

10:33AM 2 Q. Did you -- did you believe that was an added layer of
10:33AM 3 protection for that --

10:33AM 4 A. Yes.

10:33AM 5 Q. -- marijuana?

10:33AM 6 A. Yes.

10:33AM 7 Q. Why did you believe that was an added layer of
10:33AM 8 protection, storing it at your house?

10:33AM 9 A. Because it was under my roof now, and I felt comfort and
10:33AM 10 protected that the defendant had my back.

10:33AM 11 Q. And by that point in time, had you used your house for
10:33AM 12 marijuana grows in terms of getting the clones ready?

10:33AM 13 A. Yes.

10:33AM 14 Q. Eventually, did you progress to actually having an indoor
10:33AM 15 marijuana grow, where the plants would be grown to maturity
10:33AM 16 in your basement?

10:33AM 17 A. We did a small indoor operation, yes.

10:33AM 18 Q. What happened first, the indoor operation where you would
10:33AM 19 grow plants to maturity, or storing Serio's marijuana at your
10:34AM 20 house?

10:34AM 21 A. Storing the marijuana first.

10:34AM 22 Q. Okay. After you started storing the marijuana, did
10:34AM 23 Mr. Masecchia and Serio help you build a full grow operation
10:34AM 24 in your basement?

10:34AM 25 A. They did.

1 Q. Describe the discussions that led up to that, and then
2 I'll ask some follow-ups.

3 A. They were explaining to me the -- how the value of
4 hydroponics, an indoor plant, would bring more money, because
5 that's what I had stored for Ron.

6 And he says we can set up a small room in your basement
7 with the retractable light, 40 to 50 plants. They don't get
8 real big like outdoor, but you get a better grade, you get a
9 higher quality.

10 So I said okay. And the three of us did it. We set it
11 up. I cleared my basement out, and we did it.

12 Q. For how many years did you have a 40- to 50-plant grow in
13 your basement?

14 A. It was a few years. And it wasn't all the time, too. It
15 was, you know, I would get a crop, take a break for a few
16 months, then we'd do another one. So it wasn't constant.

17 Q. But unlike outdoor plants, you could grow year-round if
18 you wanted to?

19 A. It -- that was the purpose, yes.

20 Q. Whereas outdoors, you're limited to basically May through
21 October?

22 A. Correct.

23 Q. And it's a longer process?

24 A. It's a longer process.

25 Q. While you had a marijuana grow operation as a part of the

10:35AM 1 organization in your basement, did the defendant ever come
10:35AM 2 over your house?

10:35AM 3 A. Yes.

10:35AM 4 Q. Did you have a discussion with him about what you had
10:35AM 5 going on in your house?

10:35AM 6 A. Yes.

10:35AM 7 Q. Describe that for the jury.

10:35AM 8 A. Told him I -- he smelled it. It had a -- even though we
10:35AM 9 had an ionizer, which helps with the smell, and then we had a
10:36AM 10 ventilation hooked up through the -- it went through my vent
10:36AM 11 dryer, my dryer going outside, Ron had this suction system.
10:36AM 12 But it still -- you could still faintly smell it.

10:36AM 13 He smelled it, and I told him what was going on.

10:36AM 14 Q. What did he say?

10:36AM 15 A. Be careful. Watch your utilities. Limit your movement.

10:36AM 16 My kids were older at that time, they were still coming
10:36AM 17 around, and I was very cautious when they came over of when I
10:36AM 18 had them, so --

10:36AM 19 Q. He didn't arrest you on the spot?

10:36AM 20 A. No.

10:36AM 21 Q. He didn't write a criminal complaint and drag you to
10:36AM 22 federal court?

10:36AM 23 A. No.

10:36AM 24 Q. He gave you advice about your utilities?

10:36AM 25 A. Yes.

1 Q. What specifically was the advice he gave you about your
2 utilities?

3 A. Watch utilities. That's a red flag. Be double cautious
4 when you leave. Make sure everything's shut off.

5 Because I had a timer set up in the basement, so it was a
6 thousand watt grow light, so it was drawing a lot of energy,
7 so I was very conscious of other usage in my house.

8 Q. Did the defendant explain to you how use of the
9 electric -- the electricity could be a red flag?

10 A. Yes. On the chart it would be a red flag with National
11 Grid, it could flag something.

12 Q. Did you follow that advice?

13 A. I -- I did, yeah.

14 Q. How did you follow the advice? What did you do?

15 A. I did what he told me to. I made sure when I left, any
16 unnecessary things were shut off. The only thing that was on
17 was the lights in the basement, the timers. That's it.

18 Q. And who -- who helped you build that grow in your
19 basement?

20 A. Ron.

21 Q. Did Mike?

22 A. And Mike, Ron and Mike, yeah.

23 Q. Did Mike visit it periodically as well?

24 A. He did, yes.

25 Q. How long did it take to set up the equipment to build the

10:38AM 1 grow?

10:38AM 2 A. Week. It was a retractable light on a timer. We had to
10:38AM 3 get the ventilation system on.

10:38AM 4 Ron had this device that sucked the air out that went
10:38AM 5 through my vent in my dryer that went outside my house.

10:38AM 6 And behind my house there's a field, so any of that smell
10:38AM 7 would go to the field. It smelled like a skunk, so it
10:38AM 8 blended in.

10:38AM 9 And then he hooked up an ionizer, which constantly was
10:38AM 10 spraying, like, a scent.

10:38AM 11 Q. To tamp down the odor?

10:38AM 12 A. To tamp down the odor, yes.

10:38AM 13 Q. When the plants that you grew in your basement were ready
10:38AM 14 for harvest, what was the process?

10:38AM 15 A. Mike and I would cut them down. And then we'd line up --
10:39AM 16 we'd line up clothes lines in my basement, and we'd hang the
10:39AM 17 plants in a dark room with fans blowing and a humidifier.

10:39AM 18 It wasn't as long as a process. Usually outdoor, because
10:39AM 19 they were bigger, it was three to four days. This was about
10:39AM 20 two days.

10:39AM 21 And once they were dry, we'd clip them. We'd clip off
10:39AM 22 all the stem and all the shake, so to speak, and get the bud.
10:39AM 23 And we would process the bud in quarter-pound and half-pound
10:39AM 24 baggies.

10:39AM 25 Q. And then how much would be taken for distribution?

10:39AM 1 A. What -- depending on the yield. I mean, it was -- it
10:39AM 2 wasn't as big as an outdoor crop.

10:39AM 3 Q. How many pounds on average would you yield?

10:39AM 4 A. On an indoor, 10 to 15.

10:39AM 5 Q. And who was taking that to move it?

10:40AM 6 A. Mike would take it to Ron, and then Ron would cash it
10:40AM 7 out.

10:40AM 8 Q. And what were you getting in exchange for this indoor
10:40AM 9 grow that you had built for them?

10:40AM 10 A. The -- they were covering my utilities and expenses,
10:40AM 11 electric bill, that type thing. Any expenses that I
10:40AM 12 incurred, as well as a percentage.

10:40AM 13 Q. What was the percentage you got?

10:40AM 14 A. Of that? It was split three ways, so it was a little
10:40AM 15 higher. It was 33 percent.

10:40AM 16 Q. So whatever the profits were, you guys split?

10:40AM 17 A. Yeah.

10:40AM 18 Q. What you were growing in your house, three ways?

10:40AM 19 A. Yep.

10:40AM 20 Q. Was this in addition to your role still helping
10:41AM 21 manufacture and get the outdoor grows in Franklinville and
10:41AM 22 Angelica growing?

10:41AM 23 A. Yes.

10:41AM 24 Q. So that's still happening?

10:41AM 25 A. It was, yes.

10:41AM 1 Q. And Ron is still having other trips to New York City and
10:41AM 2 trucks brought in?
10:41AM 3 A. Yes.
10:41AM 4 Q. So all those things are happening?
10:41AM 5 A. Yes.
10:41AM 6 Q. By that point, were the same people you mentioned before,
10:41AM 7 Hersey, Martone, Lima, yourself, Masecchia, all involved in
10:41AM 8 the outdoor grows?
10:41AM 9 A. Yes.
10:41AM 10 Q. Did Sal Volpe come into play as well and start helping?
10:41AM 11 A. He did, yes.
10:41AM 12 Q. And we saw him in a picture yesterday, right?
10:41AM 13 A. Yes.
10:41AM 14 Q. Were Serio's close associates helping move the product,
10:42AM 15 as far as you knew?
10:42AM 16 A. Through Ron, yes.
10:42AM 17 **MR. TRIPI:** Just checking on when you want the break
10:42AM 18 to be, Judge.
10:42AM 19 **THE COURT:** How much longer do you think we have?
10:42AM 20 **MR. TRIPI:** I've got a while still, probably halfway
10:42AM 21 almost.
10:42AM 22 **THE COURT:** Oh, okay.
10:42AM 23 **MR. TRIPI:** Yeah, so, I just didn't know.
10:42AM 24 **THE COURT:** Let's go another 15 minutes.
10:42AM 25 **MR. TRIPI:** I wasn't sure if it was 10:45 or 11.

10:42AM 1 Ms. Champoux, if you can please pull up Exhibit 8A.
10:42AM 2 You're gonna see something on your screen.
10:42AM 3 This is in evidence, Your Honor. This is all going
10:42AM 4 to be in evidence.

10:42AM 5 **THE COURT:** Okay.

10:42AM 6 **MR. TRIPI:** Ms. Champoux, if you can go to page 289,
10:42AM 7 please. And can we just highlight from the top of the page
10:42AM 8 through the user information just to make it a little larger
10:43AM 9 for everybody.

10:43AM 10 **BY MR. TRIPI:**

10:43AM 11 Q. All right. Mr. Selva, do you see there's a date in the
10:43AM 12 upper left-hand corner, March 21st, 2013?

10:43AM 13 A. I do. I do.

10:43AM 14 Q. Do you see in the middle there it says subscriber
10:43AM 15 information?

10:43AM 16 A. Subscriber information?

10:43AM 17 Q. Right here.

10:43AM 18 A. Yes. I'm sorry, yes.

10:43AM 19 Q. And then in this next box, do you see financially liable
10:43AM 20 party?

10:43AM 21 A. I do, yes.

10:43AM 22 Q. Do you see a name and an address there?

10:43AM 23 A. Ronald Serio, 697 Lebrun Road, Amherst, New York.

10:43AM 24 Q. Is that the Ron Serio we've been talking about?

10:43AM 25 A. It is, yes.

1 Q. And you see some user information for a phone?

2 A. Yes.

3 Q. Okay. So Mr. Serio was principal in this organization,
4 right?

5 A. He was, yes.

6 **MR. TRIPI:** Ms. Champoux, if we can zoom out of that,
7 let's go at Exhibit 8A at page 134, please.

8 **BY MR. TRIPI:**

9 Q. Do you see this page?

10 A. I do, yes.

11 Q. Do you see where it says subscription info basic with a
12 phone number, and then do you see whose account billing
13 address that is?

14 A. Yes.

15 Q. Michael Masecchia?

16 A. Michael Masecchia of Colvin, and another address for
17 Hertel Avenue.

18 Q. Is that the Michael Masecchia we've been talking about?

19 A. It is, yes.

20 Q. And this is the same person who was a principal in this
21 organization that you were in?

22 A. Yes.

23 Q. And let's go to page 197. Do you see whose information
24 is there, Mr. Selva?

25 A. Yes, that's mine.

1 Q. Was your phone number -- your main phone during this time
2 period 716-903-1654?

3 A. It was, yes.

4 Q. Was the grow operation and storage of marijuana you just
5 talked about at 128 Rebecca Park, Buffalo, New York?

6 A. It was, yes.

7 Q. You had that phone number going all the way back to 2009?

8 A. I did, yes.

9 Q. You had that number all the way until you were arrested
10 by Homeland Security -- withdrawn -- until Homeland Security
11 did a search warrant at your house August 23rd, 2019,
12 correct?

13 A. I did, yes.

14 **MR. TRIPI:** Let's go to Exhibit 8A at page 365.

15 **BY MR. TRIPI:**

16 Q. Do you see this date here, March 13th, 2013?

17 A. I do, yes.

18 Q. All these operations that you were explaining, grow
19 operations, trucking, marijuana distribution, it's happening
20 in 2013, right?

21 A. Yes.

22 Q. It's happening in 2014?

23 A. Yes.

24 Q. It's happening in 2015?

25 A. Yes.

10:46AM 1 Q. This one relates to Thomas Serio, right?

10:46AM 2 A. That's the name on there, Thomas Serio.

10:46AM 3 Q. And that's Ron Serio's brother?

10:46AM 4 A. It is.

10:46AM 5 Q. Close associate?

10:46AM 6 A. Yes.

10:46AM 7 **MR. TRIPI:** Let's go to Exhibit 8A at page 354.

10:46AM 8 **BY MR. TRIPI:**

10:46AM 9 Q. See this here?

10:46AM 10 A. Yes.

10:46AM 11 Q. Christopher Baker?

10:46AM 12 A. Yes.

10:46AM 13 Q. Is he a close associate of Ron Serio?

10:46AM 14 A. I -- yes. I don't know him, though, but I've heard his
15 name mentioned through Ron and Mike.

10:46AM 16 Q. You knew he was part of the larger group?

10:47AM 17 A. Yes.

10:47AM 18 Q. You knew he was a distributor?

10:47AM 19 A. Yes.

10:47AM 20 Q. So he's helping move the marijuana even if you're not
21 dealing with him directly?

10:47AM 22 A. I believe so, yes.

10:47AM 23 **MR. TRIPI:** Let's go to Exhibit 8A at page 324.

10:47AM 24 I'm going to ask you actually scroll to 3. Hover
25 between the two pages. There you go. Thank you.

10:47AM

1

BY MR. TRIPI:

10:47AM

2

Q. All right. Do you see the subscription information

10:47AM

3

there?

10:47AM

4

A. Yes.

10:47AM

5

Q. Do you see a name?

10:47AM

6

A. Mark Falzone.

10:47AM

7

Q. Is that Ron Serio's best friend?

10:47AM

8

A. It is.

10:47AM

9

Q. Is he a close associate in the organization?

10:47AM

10

A. Yes, he's -- he was very close with Ron, best friends.

10:47AM

11

Q. Was he helping move product and helping with operations

10:47AM

12

as you knew?

10:47AM

13

A. On Ron's end, he never worked with myself or Mike.

10:47AM

14

Q. I'm asking about the larger organization, did you know he

10:47AM

15

was a part of it?

10:47AM

16

A. I did, yes.

10:48AM

17

MR. TRIPI: I'm going to go to Exhibit 8A at 360.

10:48AM

18

BY MR. TRIPI:

10:48AM

19

Q. Do you see the name there?

10:48AM

20

A. Yes.

10:48AM

21

Q. T.S.?

10:48AM

22

A. Yes.

10:48AM

23

Q. We're going to talk a little bit more about T.S. in a

10:48AM

24

little while.

10:48AM

25

A. Okay.

10:48AM 1 Q. But was he part of the organization?

10:48AM 2 A. He was, yes, through Ron. Yes.

10:48AM 3 Q. Was there another individual, Frank Burkhart, who was

10:48AM 4 close with Serio?

10:48AM 5 A. He was, yes.

10:48AM 6 Q. Is Frank Burkhart also friends with Wayne Anderson as far

10:48AM 7 as you know?

10:48AM 8 A. As far as I know, yes.

10:48AM 9 Q. Is Frank Burkhart also friends with B.K. as far as you

10:48AM 10 know?

10:48AM 11 A. I believe so, yes.

10:48AM 12 Q. Did Frank Burkhart own a tattoo parlor called Hard Core?

10:49AM 13 A. On Elmwood, yes, I believe he did.

10:49AM 14 **MR. TRIPI:** Let's go to Exhibit 8A at page 357.

10:49AM 15 **BY MR. TRIPI:**

10:49AM 16 Q. Do you see a Hard Core Tattoo Studio listed there, 902

10:49AM 17 Elmwood Avenue?

10:49AM 18 A. I do, yes.

10:49AM 19 Q. March 13th, 2013?

10:49AM 20 A. Yes.

10:49AM 21 Q. Is Paul Francoforte someone nicknamed Hot Dog that you

10:49AM 22 know?

10:49AM 23 A. Yes.

10:49AM 24 Q. Is that person friends with the defendant?

10:49AM 25 A. Yes.

10:49AM 1 Q. Has the defendant ever told you about a situation where
10:49AM 2 he helped out Paul Francoforte?

10:49AM 3 A. Yes.

10:49AM 4 Q. What did he tell you about that?

10:49AM 5 A. Mr. Francoforte was a big gambler, and he was coming over
10:49AM 6 the border in Niagara Falls with, I believe, an amount over
10:50AM 7 \$10,000 that he had won or whatever, however he got it. And
10:50AM 8 he was stopped. And they seized -- I believe they seized the
10:50AM 9 money.

10:50AM 10 Q. What did the defendant tell you he did?

10:50AM 11 A. He stepped in to help him, to help him any way he could.

10:50AM 12 **MR. TRIPI:** Let's go to Exhibit 8A at page 347.

10:50AM 13 **BY MR. TRIPI:**

10:50AM 14 Q. Do you see that name there?

10:50AM 15 A. I do, yes.

10:50AM 16 Q. Paul Francoforte?

10:50AM 17 A. Yes.

10:50AM 18 Q. Is that the defendant's friend?

10:50AM 19 A. Yes.

10:50AM 20 **MR. TRIPI:** Let's go to page 1.

10:50AM 21 **BY MR. TRIPI:**

10:50AM 22 Q. Do you see a case name there Wayne Anderson?

10:50AM 23 A. I do, yes.

10:50AM 24 Q. Is that a person the defendant grew up with?

10:50AM 25 A. Yes.

10:50AM 1 Q. Is he friends with the defendant?

10:51AM 2 A. Yes.

10:51AM 3 Q. Is that a person who was at the defendant's stag party
10:51AM 4 before his wedding?

10:51AM 5 A. He was, yes.

10:51AM 6 Q. Did you have a benefit in June of 2017 because you were
10:51AM 7 going to have open-heart surgery?

10:51AM 8 A. Yes.

10:51AM 9 Q. Did the defendant work the door?

10:51AM 10 A. Yes.

10:51AM 11 Q. Did Mike Masecchia work the door?

10:51AM 12 A. Yes.

10:51AM 13 Q. Was Wayne Anderson at your benefit?

10:51AM 14 A. He was, yes.

10:51AM 15 **MR. TRIPI:** Let's go to page 351.

10:51AM 16 **BY MR. TRIPI:**

10:51AM 17 Q. Do you see a name here, name Michael Mazzara?

10:51AM 18 A. Yes.

10:51AM 19 Q. Do you know Michael Mazzara?

10:51AM 20 A. I do.

10:51AM 21 Q. Who's he related to?

10:51AM 22 A. He's Masecchia -- Mike Masecchia's wife's cousin, first
10:51AM 23 cousin.

10:51AM 24 Q. So he's related to the Masecchia family?

10:51AM 25 A. Yes.

10:51AM 1 Q. What's Mike Masecchia's wife name?

10:52AM 2 A. Her maiden name is Mazzara. Krista Mazzara.

10:52AM 3 Q. Through marriage, Krista Masecchia?

10:52AM 4 A. Correct.

10:52AM 5 **MR. TRIPI:** Let's go to 8A page 205.

10:52AM 6 **BY MR. TRIPI:**

10:52AM 7 Q. Do you see what the top sentence there says, subscriber
10:52AM 8 for a connection number followed by a phone number?

10:52AM 9 A. Yes. Yes.

10:52AM 10 Q. Do you see the contact name and email associated with
10:52AM 11 that?

10:52AM 12 A. I do, yes.

10:52AM 13 Q. Whose name is that?

10:52AM 14 A. Krista Masecchia, Michael Masecchia's wife.

10:52AM 15 Q. You said Dave Hersey was someone you guys grew up with
10:52AM 16 who was part of the grow operation; is that right?

10:52AM 17 A. Yes.

10:52AM 18 **MR. TRIPI:** Let's go to 205, Exhibit 8A. Zoom in on
10:53AM 19 the top of that chart there, please.

10:53AM 20 **BY MR. TRIPI:**

10:53AM 21 Q. Do you see David Hersey's name there?

10:53AM 22 A. Yes, I do.

10:53AM 23 Q. With a phone number and an account number to the left?

10:53AM 24 A. Yes. I do, yes.

10:53AM 25 Q. Do you see Matthew Suppa's name there?

10:53AM 1 A. I do.

10:53AM 2 Q. Whose land were these grows located near?

10:53AM 3 A. Near the land that was owned by Mark Suppa.

10:53AM 4 Q. Is Matt Mark's brother?

10:53AM 5 A. Yes.

10:53AM 6 Q. Is John Suppa also Matt's brother?

10:53AM 7 A. Yes.

10:53AM 8 Q. So there's three brothers: John, Mark, and Matt?

10:53AM 9 A. Yes.

10:53AM 10 Q. Are they all friends with the defendant?

10:53AM 11 A. Yes.

10:53AM 12 Q. Are they all friends with Masecchia?

10:53AM 13 A. Yes. Yes.

10:53AM 14 Q. Are they all friends with you?

10:53AM 15 A. Yes.

10:54AM 16 Q. Did Ron Serio have another person close to him who helped

10:54AM 17 distribute named Jason Campbell, or Jay Campbell?

10:54AM 18 A. I've heard that name, yes. I don't know Jay Campbell,

10:54AM 19 but yes.

10:54AM 20 **MR. TRIPI:** Let's go to 8A, page 307.

10:54AM 21 Can we scroll down maybe to the next page? I

10:54AM 22 apologize. Oh there we go.

10:54AM 23 **BY MR. TRIPI:**

10:54AM 24 Q. Do you see an email with the name Jason Campbell there

10:54AM 25 associated with this record?

1 A. I do, yes.

2 Q. Do you know who Robert Rine is?

3 A. Robert Rine? I believe he's affiliated, he was friends
4 with Ron Serio.

5 Q. And when you say "affiliated," do you believe him to be
6 involved with the activities in the distribution of Ron
7 Serio?

8 A. I believe so, yes.

9 **MR. TRIPI:** Let's go to Exhibit 8A, page 314.

10 **BY MR. TRIPI:**

11 Q. Do you see a phone number, subscriber information with
12 the name Robert Rine there?

13 A. Yes.

14 Q. Was Michael Moynihan another affiliate of Ron Serio?

15 A. Yeah, that name's familiar. I don't know Mr. Moynihan,
16 but yes.

17 **MR. TRIPI:** Let's go to page 332.

18 **BY MR. TRIPI:**

19 Q. Do you see another subscriber record there with a phone
20 number and associated with a Michael Moynihan?

21 A. I do, yes.

22 Q. Are you familiar with the name Mark Kagan in the context
23 of this organization?

24 A. Yes.

25 Q. What was his role, if you know?

10:55AM 1 A. I believe he was with Ron, receiving product from Ron.

10:55AM 2 Q. You've heard the name though?

10:55AM 3 A. I've heard the name, but I don't know him.

10:55AM 4 **MR. TRIPI:** Okay. Let's go to page 370.

10:56AM 5 **BY MR. TRIPI:**

10:56AM 6 Q. Do you see a record there related to a Mark Kagan?

10:56AM 7 A. Yes.

10:56AM 8 Q. Do you see an address there, Brooklyn, New York?

10:56AM 9 A. I do.

10:56AM 10 Q. And did you say New York City was an area where Serio and
10:56AM 11 Masecchia were traveling to get marijuana?

10:56AM 12 A. Yes.

10:56AM 13 Q. Did other people take some trips as well?

10:56AM 14 A. I believe so, yes.

10:56AM 15 Q. Did you ever travel with them to New York City?

10:56AM 16 A. No.

10:56AM 17 Q. Do you know who Adrian Fina is?

10:56AM 18 A. Adrian Fina? I know her aunt, I don't know her.

10:56AM 19 Q. Did Ron have a wife named Lauren?

10:56AM 20 A. Yes.

10:56AM 21 Q. Did she have a sister named Adrian?

10:56AM 22 A. That's -- yes.

10:56AM 23 **MR. TRIPI:** Let's go to page 8A at page 421.

10:56AM 24 **BY MR. TRIPI:**

10:56AM 25 Q. Do you see a subscriber record there for an Adrian Fina?

10:56AM 1 A. Yes.

10:56AM 2 Q. Was Michael Buttitta a member of this organization that
10:57AM 3 moved some marijuana?

10:57AM 4 A. Yes, he was close with Ron.

10:57AM 5 **MR. TRIPI:** Let's go to page -- excuse me, 8A at
10:57AM 6 page 378.

10:57AM 7 **BY MR. TRIPI:**

10:57AM 8 Q. Do you see a subscriber record there for a Michael
10:57AM 9 Buttitta with a phone number?

10:57AM 10 A. I do, yes.

10:57AM 11 Q. Earlier we mentioned Mark Suppa; do you recall that?

10:57AM 12 A. Yes.

10:57AM 13 **MR. TRIPI:** Can we go to page 149, please?

10:57AM 14 **BY MR. TRIPI:**

10:57AM 15 Q. Did Mark Suppa live in Chicago?

10:57AM 16 A. He does.

10:57AM 17 Q. He's a landowner though?

10:57AM 18 A. Yes, it's -- believe it's in his wife's name.

10:57AM 19 Q. So his land was down near where these grows were?

10:57AM 20 A. Yes, the state land was very close to that.

10:57AM 21 Q. And did you guys use his cabin to help work on the
10:58AM 22 marijuana?

10:58AM 23 A. Yes.

10:58AM 24 Q. Okay. So his property was home base in terms of the
10:58AM 25 grow?

1 A. Yes.

2 Q. Do you see a subscriber there with his address and phone
3 number?

4 A. Yes, I do.

5 **MR. TRIPI:** Are we good now, Judge?

6 **THE COURT:** Good a time as any.

7 **MR. TRIPI:** Thank you.

8 **THE COURT:** We'll take our break now. Remember my
9 instructions about not talking about the case, including with
10 each other, and not making up your mind.

11 See you back here in about 10 or 15 minutes.

12 (Jury excused at 10:58 a.m.)

13 **THE COURT:** Anything for the record before we break,
14 Mr. Singer?

15 **MR. SINGER:** Not from me, Judge.

16 **THE COURT:** Mr. Tripi?

17 **MR. TRIPI:** No, thank you.

18 **THE COURT:** We'll see you back here in 10 or 15
19 minutes.

20 **THE CLERK:** All rise.

21 (Off the record at 10:59 a.m.)

22 (Back on the record at 11:19 a.m.)

23 (Jury not present.)

24 **THE COURT:** Please be seated.

25 **THE CLERK:** We are back on the record for the

1 continuation of the jury trial in 19-cr-227, United States of
2 America versus Joseph Bongiovanni.

3 All counsel and parties are present.

4 **THE COURT:** Anything we need to do before we bring
5 the jury back, Mr. Singer?

6 **MR. SINGER:** No.

7 **THE COURT:** Mr. Tripi?

8 **MR. TRIPI:** No, thanks, Judge.

9 **THE COURT:** Let's bring them back, please, Pat.

10 (Jury seated at 11:22 a.m.)

11 **THE COURT:** Okay. Welcome back, everybody.

12 I just learned I have another matter that I have to
13 handle at 12:30, so we'll break then and we'll break until
14 about 1:30.

15 The record will reflect that all our jurors are,
16 again, present.

17 I remind the witness that he's still under oath.

18 Mr. Tripi, you may continue.

19 **MR. TRIPI:** Thank you, Judge.

20 **BY MR. TRIPI:**

21 Q. Mr. Selva, before that break we went through a number of
22 names and phone numbers that you saw on the screen; is that
23 right?

24 A. Correct.

25 Q. Was one of the things that Mr. Masecchia asked you to do

1 for Mr. Serio was to check with the defendant to make sure
2 phone numbers of certain individuals were not being tapped?

3 A. Yes.

4 Q. And in order to get the defendant that information, were
5 you provided lists of names and phone numbers to pass along
6 to the defendant?

7 A. Yes.

8 Q. Describe that process for the jury.

9 A. Ron had reached out to Mike and asked me -- he was
10 concerned about some individuals, and he had the numbers and
11 the names. And he asked me to pass it along to the
12 defendant.

13 I wrote it on a piece of paper from the sheet that Ron
14 gave me, just wrote it on a notebook paper, and I did that.

15 I reached out with the defendant, met with him and gave
16 him the list.

17 Q. And was this a list that Ron gave to Mike and Mike gave
18 to you?

19 A. Yes.

20 Q. And how many times did this process repeat itself where
21 you would get a list of names and phone numbers from Ron to
22 Mike to you, to pass along to the defendant to see if the
23 names were clear?

24 A. A few, whenever it came up. A few.

25 Q. What do you mean by "a few?" Can you estimate a number?

11:24AM 1 A. Three. Two or three. I'm not quite sure. I don't
11:24AM 2 remember.

11:24AM 3 Q. Is that your best estimate?

11:24AM 4 A. That's my best estimate.

11:24AM 5 Q. And were there multiple names on the list each time?

11:24AM 6 A. Yes.

11:24AM 7 Q. Did Mike and Ron also want you to make sure that their
11:24AM 8 main phone numbers, not their burner phones, but their main
11:24AM 9 phone numbers were cleared?

11:24AM 10 A. Yes.

11:24AM 11 Q. What was the discussion in that regard?

11:24AM 12 A. They highlighted that. They said make sure when you get
11:24AM 13 together that you reiterate to make sure that our main
11:24AM 14 numbers, the ones that we're primarily using, are not tapped
11:25AM 15 or there's any interference.

11:25AM 16 Q. Can you distinguish for the jury between their main
11:25AM 17 number and their burner phones? What do you mean by that,
11:25AM 18 "main number?"

11:25AM 19 A. Well, they had a variety of different burner phones, and
11:25AM 20 then they both had a regular phone that they used that was
11:25AM 21 for their family or whatever. That was their main number
11:25AM 22 that they called from mostly.

11:25AM 23 They conducted the business with the burner phones.

11:25AM 24 Q. Over time, did this defendant provide you with general
11:25AM 25 information about the DEA and law enforcement techniques and

1 procedures to help you and others in the organization not get
2 caught?

3 A. Yes.

4 Q. Did the defendant also provide you with specific
5 information about investigative techniques being used or
6 considered?

7 A. Yes.

8 Q. Did you in your role pass on information to Masecchia and
9 Serio that was both general law enforcement tactics and
10 procedures and specific as to their organization and any
11 threats to it?

12 A. I did, yes.

13 Q. First, let's go through general law enforcement tactics
14 and procedures that the defendant told you about from the
15 time you first began receiving information from him in
16 exchange for bribes. Okay?

17 A. Okay.

18 Q. Did you and the defendant ever discuss the law
19 enforcement technique of how the DEA and other law
20 enforcement agencies get a wiretap?

21 A. He mentioned it. They have to get a Court order for
22 that. If they have information regarding somebody who might
23 be a high-value suspect, they get a Court order, and they
24 would tap their phones.

25 Q. Did the defendant tell you how getting caught on a

11:27AM 1 wiretap could be avoided?

11:27AM 2 A. Yes.

11:27AM 3 Q. What did he --

11:27AM 4 A. Don't talk over the phone.

11:27AM 5 Q. Yeah. What did he say in that regard?

11:27AM 6 A. Be very generic when you talk on the phone, no details,

11:27AM 7 no explanations. A lot of meeting in person, hey, let's get

11:27AM 8 together, grab coffee, whatever. Do a lot of that in person.

11:27AM 9 Q. So did you learn from what the defendant told you?

11:27AM 10 A. Yes.

11:27AM 11 Q. Did you pass that information along?

11:27AM 12 A. I did.

11:27AM 13 Q. How often did the defendant stress to you the importance

11:27AM 14 of not talking about conspiracy business openly over the

11:27AM 15 phone?

11:27AM 16 A. Every time. Every time we got together, just don't talk

11:27AM 17 over the phone. Be very vague. Quick phone call. Let's get

11:27AM 18 together, talk in person. Get together, go for a walk around

11:27AM 19 the park, whatever.

11:28AM 20 Q. And did you pass that type of information along?

11:28AM 21 A. I did.

11:28AM 22 Q. And in fact, did Masecchia use multiple burner phones?

11:28AM 23 A. He did.

11:28AM 24 Q. Did Ron Serio use multiple burner phones?

11:28AM 25 A. He did.

11:28AM 1 Q. Did they continuously discard phones and change numbers?

11:28AM 2 A. Constantly.

11:28AM 3 Q. Did you believe as part of the organization that their

11:28AM 4 use of burner phones was important for them to not get caught

11:28AM 5 on a wiretap?

11:28AM 6 A. Yes.

11:28AM 7 Q. When you discussed conspiracy business with Serio or

11:28AM 8 Masecchia, was it in person?

11:28AM 9 A. It was always in person. Always a quick phone call.

11:28AM 10 Hey, what are you doing? Are you around? Do you want to

11:28AM 11 grab a beer, coffee, like, or stop by?

11:28AM 12 Q. And now your primary contact was with Masecchia; is that

11:28AM 13 right?

11:28AM 14 A. Yes, most of the time.

11:28AM 15 Q. But Mr. Serio's been to your house?

11:28AM 16 A. Yes. I've spoken to Ron on a few occasions, he's been to

11:28AM 17 my house, yes.

11:28AM 18 Q. You've been to his house --

11:29AM 19 A. Yes.

11:29AM 20 Q. -- on Lebrun?

11:29AM 21 A. Yes.

11:29AM 22 Q. Did the defendant discuss with you the law enforcement

11:29AM 23 technique of physical surveillance?

11:29AM 24 A. Yes.

11:29AM 25 Q. What is your understanding of physical surveillance and

1 how law enforcement uses it based on your discussions with
2 the defendant?

3 A. They'll follow you. They'll put a vehicle on you,
4 different teams. Usually they are dark shaded windows. They
5 use utility vehicles.

6 If you see a utility vehicle at the end of your block for
7 a few days, it could be a red flag.

8 Q. You said the term "different teams." What did the
9 defendant tell you about how different teams are used on
10 surveillance?

11 A. Meaning if they're following somebody, they work in
12 teams. Like, if somebody's following somebody, and they go
13 to a different area, then it would be handed off to a
14 different team.

15 Q. What, if anything, did he tell you about the different
16 types of vehicles law enforcement used on surveillance?

17 A. Like I mentioned, all tinted windows. Chargers, utility
18 vehicles. Like I said prior, if it was at the end of your
19 block or wherever you were for a period of time, that would
20 raise a red flag.

21 Q. Now, before testifying here today, have you been thinking
22 more about the physical surveillance question and things that
23 the defendant told you about?

24 A. Yes.

25 Q. Before coming in to court today, did you -- did you

11:30AM 1 remember something that you let us know relatively

11:30AM 2 recently --

11:30AM 3 A. Yes.

11:30AM 4 Q. -- in terms of -- in terms of vehicles used on

11:30AM 5 surveillance?

11:31AM 6 A. Yes.

11:31AM 7 Q. So did there come a time that you recalled where the

11:31AM 8 defendant actually showed you some of the DEA's surveillance

11:31AM 9 vehicles?

11:31AM 10 A. Yes, it was --

11:31AM 11 Q. Can you describe for the jury the circumstances under

11:31AM 12 which the defendant showed you some of the DEA's surveillance

11:31AM 13 vehicles?

11:31AM 14 A. He was dropping off his vehicle to the garage, and I was

11:31AM 15 following him. I was gonna give him a ride. And I went into

11:31AM 16 the garage, and I saw different vehicles that were there.

11:31AM 17 And I was just asking question, being inquisitive. There

11:31AM 18 was a utility truck, a cab, quite a few Chargers, SUVs, all

11:31AM 19 of dark windowed.

11:31AM 20 And I just asked him, I says, are these your surveillance

11:31AM 21 vehicles? And he told me yes.

11:31AM 22 Q. Let's break that down a little bit. Did you know where

11:31AM 23 the defendant's office was?

11:31AM 24 A. The electric avenue -- the Electric building.

11:31AM 25 Q. Is that here in Buffalo?

11:31AM 1 A. Yes.

11:31AM 2 Q. Not far from the courthouse?

11:31AM 3 A. Yes, downtown Buffalo, yes.

11:31AM 4 Q. And you said he was dropping his vehicle off there?

11:32AM 5 A. His DEA vehicle. His vehicle. And I was going to give

11:32AM 6 him a ride back.

11:32AM 7 Q. Do you know what purpose did he need to drop it off for

11:32AM 8 and why did you have to drop him back?

11:32AM 9 A. I don't recall.

11:32AM 10 Q. And did this occur during the timeframe when he was

11:32AM 11 protecting you and the organization and receiving bribes?

11:32AM 12 A. Yes.

11:32AM 13 Q. Now when you got there, was it -- did you park and walk

11:32AM 14 in with him? How did that work?

11:32AM 15 A. I couldn't pull my vehicle in there. I parked in the

11:32AM 16 lot, and then I walked in. Underneath -- it was like an

11:32AM 17 underground garage, so I walked in.

11:32AM 18 Q. Did the defendant let you in?

11:32AM 19 A. Yes.

11:32AM 20 Q. Was it, like, after hours?

11:32AM 21 A. I believe so, yes.

11:32AM 22 Q. How many different surveillance vehicles did you see in

11:32AM 23 there?

11:32AM 24 A. Six or eight. A bunch.

11:32AM 25 Q. Was it helpful to you as someone involved in the

1 manufacture, storage, and transportation of marijuana as part
2 of the organization to actually see the different types of
3 vehicles they use on surveillance?

4 A. Yes.

5 Q. Did you pass what you saw and learned along to Masecchia?

6 A. Yes.

7 Q. What did you tell him?

8 A. I told him what -- where I just was, and to be extra
9 cautious. And they knew about the Chargers and SUVs, but I
10 says, well, what particularly got my attention was the
11 utility vehicles. If you see any utility vehicles parked for
12 a long time.

13 Q. Has the defendant ever told you anything about how the
14 DEA shares information with other law enforcement agencies in
15 the area?

16 A. No.

17 Q. Earlier you talked about knowing that or believing he had
18 access to a lot of information, right?

19 A. Yes.

20 Q. How did you form that belief? What did he tell you about
21 that?

22 A. Well, he was in contact with different agencies and he
23 had different contacts. So they might have been -- I was
24 just assuming they were sharing information.

25 Q. Has he told you about task force officers?

11:34AM 1 A. Yes.

11:34AM 2 Q. Have you met some task force officers?

11:34AM 3 A. I have, yes.

11:34AM 4 Q. Was Tom Doctor a DEA task force officer?

11:34AM 5 A. He was, yes.

11:34AM 6 Q. That's someone you did cocaine with, right?

11:34AM 7 A. Yes.

11:34AM 8 Q. Do you know who Joe Palmieri is?

11:34AM 9 A. I do, yes.

11:34AM 10 Q. Who's that?

11:34AM 11 A. He was with the DEA task force assigned by, I believe,

11:34AM 12 from Tonawanda Police.

11:34AM 13 Q. Okay. So you know about task forces, right?

11:34AM 14 A. Yes.

11:34AM 15 Q. Who told you about that?

11:34AM 16 A. The defendant.

11:34AM 17 Q. All right. What did he tell you about that?

11:34AM 18 A. He just said that different agencies will assign officers

11:34AM 19 to their task force and they'll work with them on cases. And

11:34AM 20 they're not agents, but they're part of the DEA task force.

11:35AM 21 Q. And you knew Tom Doctor to be a Buffalo police detective,

11:35AM 22 right?

11:35AM 23 A. Yes. Yes.

11:35AM 24 Q. You know Joe Palmieri to be a Town of Tonawanda police

11:35AM 25 detective, right?

11:35AM 1 A. Yes.

11:35AM 2 Q. And you knew there were other task force officers, right?

11:35AM 3 A. Yes.

11:35AM 4 Q. And they all come together and help the DEA?

11:35AM 5 A. Correct.

11:35AM 6 Q. Did you ever tell Masecchia or Serio about how the DEA

11:35AM 7 uses task force officers based on what you learned through

11:35AM 8 the defendant?

11:35AM 9 A. I did.

11:35AM 10 Q. What did you tell him?

11:35AM 11 A. I told them that there's different agencies that are

11:35AM 12 involved that will provide officers, and then they will be

11:35AM 13 assigned. They're not federal agents, but they're working

11:35AM 14 with them under their jurisdiction.

11:35AM 15 Q. Did you believe that the fact that the defendant worked

11:35AM 16 with task force officers and local agencies was helpful to

11:35AM 17 the -- to the organization?

11:35AM 18 A. Yes.

11:35AM 19 Q. How did that -- when the defendant said he would keep a

11:36AM 20 watchful eye, did you believe that having access to task

11:36AM 21 force officers was helpful?

11:36AM 22 A. Yes.

11:36AM 23 Q. Why?

11:36AM 24 A. It gives him a broader range, just more ways to get

11:36AM 25 information.

1 Q. Now we talked earlier about the utilities that you were
2 using when you were growing marijuana. Can you elaborate
3 more fully about what the defendant told you about how the
4 DEA checks utilities, as it relates to suspected drug
5 dealers?

6 A. If it raises a red flag from National Grid, National Grid
7 would contact law enforcement agencies and tell them about
8 the usage patterns, that it's increased for whatever period
9 of time, and they might want to take a look at it for
10 possible illegal activity.

11 Q. Did he tell you -- did the defendant tell you how he
12 learned that? How he knew that through his job?

13 A. No.

14 Q. Did you believe it was based on his experience and
15 training?

16 A. Yes.

17 **MR. TRIPI:** Ms. Champoux, please pull up Exhibit 30
18 in evidence. And if we can -- this will be shown to
19 everybody, thank you.

20 I'd like to scroll down, Ms. Champoux, to line number
21 23, if you could highlight that.

22 **BY MR. TRIPI:**

23 Q. Do you see those columns there, Mr. Selva?

24 A. Yes. Yes.

25 Q. Do you see the first -- we're in row 23, and the columns

11:38AM 1 first name, last name, Joseph Bongiovanni?

11:38AM 2 A. Yes.

11:38AM 3 Q. Can you read the description there?

11:38AM 4 A. Indoor marijuana grow site and APR training completed.

11:38AM 5 No exam.

11:38AM 6 Q. And what's the date there, that training was completed?

11:38AM 7 A. 5/23/13.

11:38AM 8 Q. By that point, in your involvement in the Masecchia-Serio

11:38AM 9 organization, had there been marijuana grows at other

11:38AM 10 locations besides your house?

11:38AM 11 A. Yes, there was quite a few.

11:38AM 12 Q. And then you had one in your house as well?

11:39AM 13 A. Yes.

11:39AM 14 Q. And the defendant told you about red flags?

11:39AM 15 A. Yes.

11:39AM 16 Q. He told you about people investigating those type of

11:39AM 17 indoor grows?

11:39AM 18 A. Yes.

11:39AM 19 **MR. TRIPI:** We can take that down.

11:39AM 20 **BY MR. TRIPI:**

11:39AM 21 Q. Did you use the information the defendant told you about

11:39AM 22 to help yourself avoid being detected?

11:39AM 23 A. Absolutely, yes.

11:39AM 24 Q. Did you pass that information along to Masecchia?

11:39AM 25 A. Yes.

1 Q. What, if anything, did the defendant tell you about how
2 GPS trackers worked and how the DEA uses -- just generally,
3 how the DEA uses GPS trackers?

4 A. They would put them on a vehicle for somebody they had
5 under surveillance, of interest. And they would track their
6 movements, their patterns, trying to get information or a
7 location on where their stash house is or grow house,
8 whatever it is they were looking for.

9 Q. Did he tell you where on vehicles they put GPS trackers?

10 A. Underneath.

11 Q. Was that information helpful to you as someone who
12 traveled and transported marijuana from the Southern Tier to
13 the city?

14 A. Yes.

15 Q. Did you tell him how you blended into traffic during rush
16 hour?

17 A. Yes.

18 Q. What did he say about that when you told him that?

19 A. He said that's the best way to do it, draw no attention.

20 Q. What, if anything, did the defendant ever tell you about
21 how law enforcement investigates banking activity?

22 A. If there were large deposits made of cash, IRS
23 regulations, anything over \$10,000, you have to report. But
24 if there was a pattern of cash deposits, that could raise a
25 red flag.

11:41AM 1 Q. And a red flag's a bad thing for someone involved in
11:41AM 2 trafficking?
11:41AM 3 A. Correct, yes.
11:41AM 4 Q. Did you know not to keep the money, the cash you were
11:41AM 5 making from distribution of marijuana, out of the banking
11:41AM 6 system?
11:41AM 7 A. Yes.
11:41AM 8 Q. How did you know not to put the money in the bank?
11:41AM 9 A. From what I was told.
11:41AM 10 Q. And who told that to you?
11:41AM 11 A. The defendant. I kept it as cash.
11:41AM 12 Q. How did you spend it?
11:41AM 13 A. Living expenses. I spent it as cash. It just went.
11:41AM 14 Q. Did you buy groceries?
11:41AM 15 A. Groceries.
11:41AM 16 Q. Did you buy gas?
11:41AM 17 A. I bought gas, things for my kids.
11:41AM 18 Q. Clothes?
11:41AM 19 A. Yes, clothes.
11:41AM 20 Q. Did you -- did you learn not to claim the cash you were
11:41AM 21 getting from the illicit drug distribution on your taxes?
11:42AM 22 A. Yes.
11:42AM 23 Q. Did you talk about how the DEA investigates and helps
11:42AM 24 investigate tax information?
11:42AM 25 A. Brief. Briefly, not -- not much. I -- I knew not to

11:42AM 1 include it on my taxes.

11:42AM 2 Q. What -- was this information helpful to you, Masecchia,

11:42AM 3 and Serio in not getting caught?

11:42AM 4 A. Yes.

11:42AM 5 Q. Now I'd like to discuss with you specific information

11:42AM 6 about your organization that the defendant relayed to you and

11:42AM 7 that you relayed to Masecchia and ultimately to Serio, okay?

11:42AM 8 A. Go ahead.

11:42AM 9 Q. Generally, were requests from Serio passed from -- to you

11:43AM 10 from Masecchia?

11:43AM 11 A. Yes.

11:43AM 12 Q. Generally, was information the defendant provided passed

11:43AM 13 from you to Masecchia back to Serio?

11:43AM 14 A. Yes.

11:43AM 15 Q. Was the information exchanged face to face?

11:43AM 16 A. It's always face to face.

11:43AM 17 Q. Was that consistent with how the defendant told you to do

11:43AM 18 things?

11:43AM 19 A. Yes.

11:43AM 20 Q. Was operating face to face, to put a finer point on it,

11:43AM 21 consistent with the general instructions and information the

11:43AM 22 defendant gave you about how the DEA and other law

11:43AM 23 enforcement conduct wiretaps?

11:43AM 24 A. Yes. Never talk over the phone. Back to that.

11:43AM 25 Q. In terms of meeting face to face, did you discuss drug

11:43AM 1 business with Serio and Masecchia, have you met with them at
11:43AM 2 your house?
11:43AM 3 A. A few times, yes.
11:43AM 4 Q. Did you meet with them at Serio's house?
11:43AM 5 A. Yes.
11:43AM 6 Q. Did you meet with them at the outdoor grow site?
11:44AM 7 A. No.
11:44AM 8 Q. Have you been at the outdoor grow at the same time as
11:44AM 9 Serio and Masecchia?
11:44AM 10 A. As Masecchia.
11:44AM 11 Q. Okay.
11:44AM 12 A. Serio was never there. So when Mike and I were together,
11:44AM 13 we would talk -- the answer is yes.
11:44AM 14 Q. Have you gone to the Western Door with them and had
11:44AM 15 dinner together?
11:44AM 16 A. I did, yes.
11:44AM 17 Q. What other places would you meet with Masecchia, as
11:44AM 18 opposed to all of them together?
11:44AM 19 A. Usually a bar. When him and I would meet, we would
11:44AM 20 either meet at Gables, Kelly's Korner, M.T. Pockets,
11:44AM 21 somewhere.
11:44AM 22 Q. Are those bars in and around the North Buffalo area?
11:44AM 23 A. They're in the North Buffalo area, they're in the
11:44AM 24 neighborhood area.
11:44AM 25 Q. In order for this defendant -- we've touched on this, but

11:44AM 1 in order for the defendant to effectively protect the
11:44AM 2 organization, did he have to have -- did he have to
11:44AM 3 understand the scope of it?

11:44AM 4 A. Yes.

11:44AM 5 Q. Did you explain the scope of it to him and update it as
11:45AM 6 operations expanded?

11:45AM 7 A. Yes.

11:45AM 8 Q. Was it important to keep him apprised with updates as
11:45AM 9 necessary?

11:45AM 10 A. Yes.

11:45AM 11 Q. Why was that important?

11:45AM 12 A. In case something would have happened. The operation is
11:45AM 13 growing, we needed as much information as possible.

11:45AM 14 Q. As to one aspect, were Masecchia and Serio and others
11:45AM 15 traveling to New York City to engage in marijuana
11:45AM 16 transactions?

11:45AM 17 A. Yes, they were.

11:45AM 18 Q. Did you describe that to the defendant?

11:45AM 19 A. Yes.

11:45AM 20 Q. Why?

11:45AM 21 A. Because they were doing it quite a bit. And the route
11:45AM 22 they were taking, they wanted to make sure they weren't
11:45AM 23 followed, there was no surveillance, just everything was
11:45AM 24 okay. The pat --

11:45AM 25 Q. Did you start -- did you start to say the pattern?

11:45AM 1 A. Yes.

11:45AM 2 Q. What did you mean by that, as you started to say pattern?

11:45AM 3 A. They made frequent trips to -- to New York. So when they

11:45AM 4 went, they were always concerned. They wanted to make sure

11:45AM 5 that there was nothing -- no surveillance or nothing. No new

11:45AM 6 investigation or anything that had come up.

11:45AM 7 Q. So did Masecchia ask you to find out if anyone was on to

11:46AM 8 him and Ron's travels?

11:46AM 9 A. He did, yes.

11:46AM 10 Q. Did you ask the defendant about that?

11:46AM 11 A. I did.

11:46AM 12 Q. What did the defendant tell you?

11:46AM 13 A. He told me he was all clear, not that he's aware of.

11:46AM 14 Q. What did you report back to Masecchia?

11:46AM 15 A. I told him exactly that. That it's all clear, and

11:46AM 16 there's nothing to worry about, as far as I know, as far as

11:46AM 17 was told to me.

11:46AM 18 Q. We've talked about this, but as operations were

11:46AM 19 expanding, they wanted you to have certain phone numbers

11:46AM 20 checked out?

11:46AM 21 A. Yes.

11:46AM 22 Q. And that was the list we talked about?

11:46AM 23 A. Yes.

11:46AM 24 Q. After you had passed the list to the defendant, would he

11:46AM 25 report back as to whether any phones were tapped?

11:46AM 1 A. Yes.

11:46AM 2 Q. What did he report back?

11:46AM 3 A. He reported a few were tapped, that were off the list.

11:46AM 4 Q. What did he report? Who?

11:46AM 5 A. R.K., T.S.

11:47AM 6 Q. Did he report that their phones were tapped, or that they

11:47AM 7 were informants?

11:47AM 8 A. That they were informants.

11:47AM 9 Q. All right. I'm asking about wiretaps.

11:47AM 10 A. Okay.

11:47AM 11 Q. When they -- when they asked you for the lists and the

11:47AM 12 names we just went through, were the phones clear from

11:47AM 13 wiretaps?

11:47AM 14 A. Off the list that he gave me, yes.

11:47AM 15 Q. Okay. We'll get to R.K. and T.S. in a moment.

11:47AM 16 Would you get the lists and then rewrite them on a

11:47AM 17 smaller piece of paper?

11:47AM 18 A. I did, yes.

11:47AM 19 Q. Describe why you did that.

11:47AM 20 A. Just to -- that was just me. I would just write it down,

11:47AM 21 tell them who they were, and then I would dispose of the

11:47AM 22 other list.

11:47AM 23 Q. What was your purpose of writing it on a smaller piece of

11:47AM 24 paper?

11:47AM 25 A. Just to get rid of the -- the main list. I'd have --

11:47AM 1 just so I could reference what I had to do and who I had to
11:48AM 2 get checked.
11:48AM 3 Q. Would you hand the smaller piece of paper to the
11:48AM 4 defendant?
11:48AM 5 A. Yes.
11:48AM 6 Q. Did you make sure it fit, like, in the palm of your hand?
11:48AM 7 A. Yes.
11:48AM 8 Q. Why did you do that? That's what I want you to explain.
11:48AM 9 A. Just smaller, undetectable, just easier.
11:48AM 10 Q. Every time you passed a list, did the defendant look into
11:48AM 11 it for you?
11:48AM 12 A. He did.
11:48AM 13 Q. Getting back to the trucks -- the trailers that were
11:48AM 14 coming from California and British Columbia. Did you
11:48AM 15 understand that they were 100 pounds or more of marijuana in
11:48AM 16 those trucks?
11:48AM 17 A. There was a great deal, yes.
11:49AM 18 Q. Did you understand that there were cover loads to conceal
11:49AM 19 the marijuana in those trucks?
11:49AM 20 A. Yes. Mike had mentioned that, yes.
11:49AM 21 Q. Did you explain where those trucks were coming from to
11:49AM 22 the defendant?
11:49AM 23 A. I did.
11:49AM 24 Q. What, if anything, did he say as to whether any of those
11:49AM 25 trucks were being watched?

11:49AM 1 A. None were. They were all clear. It was no worry.

11:49AM 2 Q. Sometime in or around 2013, did the defendant

11:49AM 3 specifically advise you that law enforcement were considering

11:49AM 4 or using GPS trackers on Masecchia's vehicle?

11:49AM 5 A. Yes.

11:49AM 6 Q. What did the defendant tell you about that?

11:49AM 7 A. He told me that he had placed trackers on Mike's vehicle,

11:49AM 8 and they were trying to locate different locations that him

11:50AM 9 and Ron had had, and they were using trackers for that.

11:50AM 10 Q. And what did you tell Mike Masecchia?

11:50AM 11 A. I told him what -- that there's trackers on his vehicle,

11:50AM 12 and he better be careful, change his patterns, change your

11:50AM 13 routine.

11:50AM 14 Q. What did Masecchia do in response to the information you

11:50AM 15 told him?

11:50AM 16 A. He changed his -- he changed his whole routine, from what

11:50AM 17 he told me. He didn't go to the same patterns, same

11:50AM 18 locations. He changed it all up.

11:50AM 19 Q. Did he use different vehicles, if you know?

11:50AM 20 A. He used different vehicles, too. He took his wife's

11:50AM 21 vehicle more, too.

11:50AM 22 Q. Did you know whether any GPS trackers actually got placed

11:51AM 23 on Masecchia's vehicle?

11:51AM 24 In other words, did Masecchia look under his truck or

11:51AM 25 under his vehicle?

1 A. He never told me that he did, but I knew they were there.

2 And so did he. And, like I said, he immediately changed

3 patterns. He started using Krista's truck more.

4 Q. Did the defendant ever tell you about the IRS or any

5 financial investigation into Ron Serio?

6 A. Yes.

7 Q. What did the defendant tell you?

8 A. He said because of Ron's -- he was a heavy gambler, and

9 he was winning quite a bit from the casinos. He was actually

10 being banned from them.

11 There was an IRS investigation into his winnings.

12 Q. Did the defendant tell you whether he had access to that

13 IRS investigation?

14 A. No.

15 Q. What did he -- what did he tell you that you passed along

16 to Masecchia?

17 A. I told Masecchia that Ron is being looked at by the IRS,

18 so he's to change his patterns with his gambling.

19 Q. Now I want to talk about informants, okay?

20 Did Defendant Bongiovanni disclose to you the identity of

21 informants that you should stay away from and that could

22 threaten the organization that you were a part of?

23 A. Yes.

24 Q. I want to ask you about a person named J.D., okay?

25 A. Okay.

11:52AM 1 Q. Do you know who that person is?

11:52AM 2 A. Yes.

11:52AM 3 Q. How do you know him?

11:52AM 4 A. I knowing him from the gym, the Fitness Factory, going
11:52AM 5 there. Mutual friends.

11:52AM 6 Q. When you started as part of this organization with Ron
11:53AM 7 and Mike, getting the -- getting involved, you were getting
11:53AM 8 the clones ready in your basement, as you described?

11:53AM 9 A. Yes.

11:53AM 10 Q. And so that was something that happened basically right
11:53AM 11 out of the gate?

11:53AM 12 A. Correct.

11:53AM 13 Q. Is there a lot of watering and moisture involved in that
11:53AM 14 part of the process?

11:53AM 15 A. There is.

11:53AM 16 Q. Did the defendant know you were doing that and getting
11:53AM 17 the clones ready?

11:53AM 18 A. Yes.

11:53AM 19 Q. And then it's by -- around 2014, where you started
11:53AM 20 growing plants to maturity; is that right?

11:53AM 21 A. Correct.

11:53AM 22 Q. Did you get mold in your basement as a result of the
11:53AM 23 repeated grows and the water and the moisture?

11:53AM 24 A. I did, yes.

11:53AM 25 Q. Did you know J.D. was someone who could do tile work?

11:54AM 1 A. Tile work, drywall. He was a handyman.

11:54AM 2 Q. Did you hire him to help fix some tile in the basement as

11:54AM 3 a result of the mold from the marijuana grows?

11:54AM 4 A. He had cut out the --

11:54AM 5 Q. Did you hire him? "Yes" or "no."

11:54AM 6 A. I did, yes.

11:54AM 7 Q. So describe the work that you hired him to do in the

11:54AM 8 basement.

11:54AM 9 A. Well, there was no floor on my basement, it was a

11:54AM 10 concrete floor at that time. But the mold from the wall,

11:54AM 11 the -- the wall, he cut it out, he cut it halfway out, and

11:54AM 12 then he did the drywall, he redid the drywall. He was very

11:54AM 13 good at taping, and it looked very clean and neat.

11:54AM 14 Q. Did you tell the defendant that you had this work done in

11:54AM 15 your basement, and that J.D. did it?

11:54AM 16 A. Yes.

11:54AM 17 Q. Do you remember a time when you were in the gym and then

11:54AM 18 you saw J.D. with the defendant, where the defendant told you

11:55AM 19 some information about J.D.?

11:55AM 20 A. Yes.

11:55AM 21 Q. Describe the circumstances and what the defendant told

11:55AM 22 you about J.D..

11:55AM 23 A. We were at the gym. J.D. seemed to be there a lot, too,

11:55AM 24 when we were there. We said hello, and then he walked away.

11:55AM 25 And then when he walked away, the defendant said keep a

11:55AM 1 low profile with him, he's an informant.

11:55AM 2 Q. Did he tell you stay away from him?

11:55AM 3 A. Stay away from him.

11:55AM 4 Q. Did he tell you that after J.D. had done the work in your

11:55AM 5 basement?

11:55AM 6 A. Yes.

11:55AM 7 Q. Was this after the bribes had been started to be paid for

11:55AM 8 the defendant?

11:55AM 9 A. Yes.

11:55AM 10 Q. Did you understand the defendant to be warning you that

11:56AM 11 J.D. could be someone that would potentially get you in

11:56AM 12 trouble because he was an informant?

11:56AM 13 A. Yes.

11:56AM 14 Q. Did you pass J.D.'s name along to Masecchia or anyone

11:56AM 15 else?

11:56AM 16 A. To Masecchia, and then he -- I believe he told Ron.

11:56AM 17 Q. Did you know R.K., B.K.?

11:56AM 18 A. I didn't know him, but he was a friend of Ron's.

11:56AM 19 Q. You knew who he was?

11:56AM 20 A. I knew of him.

11:56AM 21 Q. Who was he associated with that was close to Serio as

11:56AM 22 well?

11:56AM 23 A. Who else?

11:56AM 24 Q. Was he also close with Frank Burkhardt?

11:56AM 25 A. Yes. They were -- they were -- again, I didn't know

11:56AM 1 them, but they were good friends from what I --

11:56AM 2 Q. Did you see R.K. around from time to time?

11:56AM 3 A. A few times, yes.

11:56AM 4 Q. Where do you recall seeing him around a few times?

11:57AM 5 A. One time at a bar. Other times -- the first time I went
11:57AM 6 to Ron's, he was actually leaving Ron's house.

11:57AM 7 Q. Do you remember who he was leaving Ron's house with?

11:57AM 8 A. I don't.

11:57AM 9 Q. You're talking about the house on 697 Lebrun?

11:57AM 10 A. On Lebrun, yes.

11:57AM 11 Q. Was that a big beautiful house?

11:57AM 12 A. It was.

11:57AM 13 Q. Easy to find?

11:57AM 14 A. Yeah.

11:57AM 15 Q. Did there come a time -- after that occasion where you
11:57AM 16 had seen him leaving Ron's house, did there come a time where
11:57AM 17 Masecchia instructed you to look into R.K. for Serio to see
11:57AM 18 if R.K. was an informant?

11:57AM 19 A. Yes.

11:57AM 20 Q. What did Masecchia tell you?

11:57AM 21 A. He said Ron was concerned. He said that he heard that
11:57AM 22 R.K. got busted, and he was concerned because he was doing
11:58AM 23 quite a business -- quite a lot of business with Ron, that he
11:58AM 24 could become an informant.

11:58AM 25 Q. When was this approximately?

1 A. 2014, '15, that timeframe.

2 **MR. TRIPI:** Ms. Champoux, can we pull up Exhibit 92.

3 **BY MR. TRIPI:**

4 Q. Do you see what's on your screen there, Government

5 Exhibit 92, what it says at the top?

6 A. Yes.

7 Q. It says confidential source agreement?

8 A. I see it, yes.

9 **MR. TRIPI:** I'd like to go to page 2 of that.

10 **BY MR. TRIPI:**

11 Q. Can you read paragraph 13, Mr. Selva?

12 A. I understand that this agreement is in force from 4/29/13

13 in 4/29/14.

14 Q. Okay.

15 **MR. TRIPI:** Zoom out of that, please.

16 **BY MR. TRIPI:**

17 Q. Do you see some signatures down there, Mr. Selva?

18 A. I do, yes, sir.

19 Q. Do you see the date of those signatures?

20 A. Yes.

21 Q. What date is that?

22 A. 4/29/13.

23 Q. Okay. Is that around the timeframe when the defendant

24 informed you about Mr. R.K.?

25 A. Yes, it was 2013, like I said, between that timeframe.

11:59AM 1 Q. A moment ago you said 2014, '15. Does this help you
11:59AM 2 recall the timeframe?

12:00PM 3 A. It does. I wasn't exactly clear on the time frames.

12:00PM 4 Q. And was it in proximity to when Mr. R.K. had gotten into
12:00PM 5 some trouble?

12:00PM 6 A. Yes.

12:00PM 7 Q. Gotten arrested?

12:00PM 8 A. Yes.

12:00PM 9 **MR. TRIPI:** You can take that down, Ms. Champoux.

12:00PM 10 **BY MR. TRIPI:**

12:00PM 11 Q. After you were asked to have the defendant look into
12:00PM 12 R.K., what did you do? Describe the conversation that you
12:00PM 13 had with this defendant.

12:00PM 14 A. I asked him, I says, they're concerned, when it was
12:00PM 15 brought to my attention by Mike, if he could check him out
12:00PM 16 and find out if he's an informant.

12:00PM 17 Q. So we're using "he" a lot again.

12:00PM 18 A. He --

12:00PM 19 Q. If who could be checked out? Use names, please.

12:00PM 20 A. If R.K. could be checked, out because there's concern,
12:00PM 21 like I mentioned before, that he can be an informant, he had
12:00PM 22 got arrested.

12:00PM 23 Q. You said that to the defendant?

12:00PM 24 A. Yes.

12:00PM 25 Q. What did the defendant say?

1 A. He in fact reiterated that he is an informant, that he's
2 working.

3 Q. Did he say it in the same conversation? Or did he come
4 back and tell you? Was there any time delay? How did that
5 work?

6 A. No, it was pretty quick.

7 Q. Okay.

8 A. It was pretty quick.

9 Q. What did the defendant say?

10 A. He said that he is an informant, he is working with us,
11 so be careful.

12 Q. What did you do with that information?

13 A. I told Mike. And I told -- I told Mike. I reached out
14 to Mike, because I talked to him mostly, and I believe he
15 reiterated that to Ron.

16 Q. Was that a face-to-face discussion with you and
17 Masecchia?

18 A. Yes, it was always face to face.

19 Q. Did you take your time and wait days, weeks, to talk to
20 Masecchia? Or did you get in touch with him right away?

21 A. No, it was immediate.

22 Q. Why was it immediate?

23 A. Because I had just found out, that this is information
24 that they wanted to know about, that's what they asked me,
25 and it can hurt the organization.

12:01PM 1 Q. Is an informant in the organization a bad thing?

12:02PM 2 A. Yes.

12:02PM 3 Q. Could everyone go to jail?

12:02PM 4 A. Yes.

12:02PM 5 Q. Was it your understanding that R.K. had access to several

12:02PM 6 people in the group?

12:02PM 7 A. Yes.

12:02PM 8 Q. Was this big information?

12:02PM 9 A. It was very big.

12:02PM 10 Q. Was it concerning to you?

12:02PM 11 A. Yes.

12:02PM 12 Q. Was it concerning to Mike?

12:02PM 13 A. Yes. R.K. was very close with Ron, so --

12:02PM 14 Q. Did -- did the defendant tell you anything he would do as

12:02PM 15 it related to R.K.?

12:02PM 16 A. Just keep -- keep an eye out, if something were to

12:02PM 17 happen.

12:02PM 18 Q. So he didn't give you any specifics about that?

12:02PM 19 A. No specifics.

12:02PM 20 Q. After the defendant confirmed R.K. as an informant, did

12:03PM 21 you shortly thereafter learn that Masecchia and Serio wanted

12:03PM 22 another person named T.S. looked into?

12:03PM 23 A. Yes.

12:03PM 24 Q. How did you become aware that they wanted T.S. looked

12:03PM 25 into?

12:03PM 1 A. Mike had reached out to me. He said Ron's concerned
12:03PM 2 about T.S.. I didn't know him. He said he recently had
12:03PM 3 gotten arrested, and if he can get him -- he was concerned
12:03PM 4 that he might have become an informant, if we could get it
12:03PM 5 checked out.

12:03PM 6 Q. After you were asked to have the defendant look into
12:03PM 7 T.S., did you meet up with the defendant?

12:03PM 8 A. I did.

12:03PM 9 Q. What did you say to the defendant?

12:03PM 10 A. I asked him, I says, this name is of concern. Ron does
12:03PM 11 quite a bit of business with him. He had just got arrested.
12:03PM 12 He's concerned that he can be an informant.

12:03PM 13 And he confirmed that he was.

12:03PM 14 Q. Was there any delay there? Did the defendant get back to
12:04PM 15 you on that one?

12:04PM 16 A. Believe there was a delay on that.

12:04PM 17 Q. How much time?

12:04PM 18 A. Just a day.

12:04PM 19 Q. What did you do with that information?

12:04PM 20 A. I immediately reached out to Mike, I gotta talk to you.
12:04PM 21 He actually came over my house and I told him what I had
12:04PM 22 found out.

12:04PM 23 Q. Was Mike relaying that information to Serio?

12:04PM 24 A. He was going to be relaying it to Ron, yes.

12:04PM 25 Q. At that point, did you -- did they then stay away from

12:04PM 1 T.S.?

12:04PM 2 A. As far as I know, yes.

12:04PM 3 Q. How long after you were asked -- withdrawn.

12:04PM 4 How long after you asked the defendant to check into R.K.

12:04PM 5 did you get additional instructions from Masecchia to have

12:04PM 6 him look into T.S.?

12:04PM 7 A. It wasn't long after that. Once it came to Ron's

12:05PM 8 attention about Tom T.S., he immediately reached out to Mike

12:05PM 9 to have Mike contact me and find out.

12:05PM 10 Q. Are you saying there wasn't a lot of time between

12:05PM 11 checking on R.K. and checking on T.S.?

12:05PM 12 A. There wasn't, no.

12:05PM 13 Q. You had mentioned that R.K. was associated with Frank

12:05PM 14 Burkhardt; do you remember that?

12:05PM 15 A. Yes.

12:05PM 16 Q. Were you also asked to ask the defendant if Frank

12:05PM 17 Burkhardt was an informant?

12:05PM 18 A. Yes.

12:05PM 19 Q. And what did the defendant come back and tell you on that

12:05PM 20 one?

12:05PM 21 A. He told me no, he was not.

12:05PM 22 Q. Now as time went on, did the -- did Ron Serio get close

12:06PM 23 to another person who was moving a lot of marijuana in the

12:06PM 24 organization named Mario Vacanti?

12:06PM 25 A. He did, yes.

12:06PM 1 Q. Did they have extensive dealings with one another as far
12:06PM 2 as you understood it?

12:06PM 3 A. As far as I understood it, yes.

12:06PM 4 Q. Was Mario Vacanti someone whose name you had advised the
12:06PM 5 defendant was part of the organization at a point in time?

12:06PM 6 A. Yes.

12:06PM 7 Q. At some point, did the defendant bring some information
12:06PM 8 to your attention regarding Vacanti?

12:06PM 9 A. Yes, there's an investigation going on.

12:06PM 10 Q. Did the defendant provide you some information about
12:06PM 11 investigation into Vacanti?

12:06PM 12 A. He just said that there was an investigation going on.

12:06PM 13 Q. Do you remember the specifics of what he told you as you
12:06PM 14 sit here today?

12:06PM 15 A. I don't. If you have something I could recall.

12:06PM 16 Q. Whatever he told you, did you pass it along?

12:07PM 17 A. I did, yes.

12:07PM 18 Q. Describe what you did for the jury. Tell them the steps
12:07PM 19 you took.

12:07PM 20 A. Once I found out that he was, I reached out to Mike and I
12:07PM 21 told him to get ahold of Ron, that yes, he is. There's an
12:07PM 22 investigation going on with Mario.

12:07PM 23 Q. Was your communication with Mike in person?

12:07PM 24 A. It was always in person, yes.

12:07PM 25 Q. Did you provide whatever specifics you learned at the

12:07PM 1 time?

12:07PM 2 A. What I learned I provided to them, yes.

12:07PM 3 Q. Was your intention to get the information to Masecchia so
12:07PM 4 he could inform Serio?

12:07PM 5 A. Yes.

12:07PM 6 Q. Earlier you mentioned that the defendant told you about
12:07PM 7 GPS trackers related to Masecchia, and IRS investigation into
12:07PM 8 Ron Serio in terms of some of the specific things he was
12:08PM 9 telling you; do you recall that?

12:08PM 10 A. I do.

12:08PM 11 Q. Did the defendant tell you he was part of that
12:08PM 12 investigation?

12:08PM 13 A. No, I don't recall.

12:08PM 14 Q. Did he tell you he had access to that investigation?

12:08PM 15 A. He had access to information.

12:08PM 16 Q. After about a year and a half, did he tell you the
12:08PM 17 investigation was being closed?

12:08PM 18 A. I don't recall.

12:08PM 19 **MR. TRIPI:** One moment, please, Your Honor.

12:08PM 20 **BY MR. TRIPI:**

12:09PM 21 Q. I'm going to ask you to read Government Exhibit 3540N,
12:10PM 22 page 91 just at the bottom, from line 23 to the end, and then
12:10PM 23 I want you to read all of page 92. Okay? I'm going to hand
12:10PM 24 this up to you, read that to yourself.

12:10PM 25 So page 91, line 23 to the end, and all of page 92, okay?

1 A. Okay.

2 **MR. SINGER:** Your Honor, the document is not in
3 evidence.

4 **MR. TRIPI:** I'm refreshing his recollection.

5 **MR. SINGER:** So we're refreshing?

6 **MR. TRIPI:** Yes.

7 **THE COURT:** He hasn't asked a question yet, he's just
8 asking him to read the document.

9 **MR. SINGER:** I understand, Judge.

10 **MR. TRIPI:** And when you're done reading, just look
11 at me, okay?

12 **BY MR. TRIPI:**

13 Q. Mr. Selva, did that refresh your recollection as
14 regarding the -- whether the defendant told you investigation
15 into Serio and Masecchia was over?

16 A. Yes.

17 Q. What did he say to you in that regard?

18 A. He said the investigation was going nowhere. They were
19 not able to locate the grow houses and the operation,
20 additional grow houses through the trackers, and therefore
21 it's dead.

22 Q. Did he tell you that after about one and a half years?

23 A. Yes.

24 Q. Did he reference that the IRS had nothing?

25 A. He did, yes. He referenced they had nothing.

12:13PM 1 Q. Did he reference the DEA had not found any grow houses?

12:13PM 2 A. Yes.

12:13PM 3 Q. But your house was a grow house, wasn't it?

12:13PM 4 A. It was.

12:13PM 5 Q. And the defendant was in your house, and you talked about

12:13PM 6 it being a grow house, didn't you?

12:13PM 7 A. Yes.

12:13PM 8 Q. At any time before that DEA file, that investigation, was

12:13PM 9 closed, did the defendant ever express to you feeling

12:13PM 10 pressure as a result of the protection he was providing?

12:13PM 11 A. Yes, he did feel pressure.

12:13PM 12 Q. What did he say?

12:13PM 13 A. He just said that they were -- he felt, because of the

12:13PM 14 relationship, that he was getting a lot of pressure to

12:13PM 15 produce, finding something.

12:14PM 16 Q. Did he bring up the top -- the idea of maybe throwing him

12:14PM 17 a bone, someone from the organization he could arrest?

12:14PM 18 A. He did, yes.

12:14PM 19 Q. What did he say about that?

12:14PM 20 A. He said if Ron or Mike could give me a name of somebody

12:14PM 21 that was doing business with them, a low-level person, if

12:14PM 22 they could get a bust, it would maybe sway things away and

12:14PM 23 loosen things up. He wouldn't feel as much pressure.

12:14PM 24 Q. Did you mention that request to Mike?

12:14PM 25 A. I did.

1 Q. How far did that go?

2 A. It didn't go too far.

3 Q. Each time the defendant gave you a name of a specific DEA
4 informant, did you pass that information along to Masecchia?

5 A. I did.

6 **MR. TRIPI:** Do you want me to go 10 more minutes,
7 Judge?

8 **THE COURT:** Sure.

9 **BY MR. TRIPI:**

10 Q. Okay. I want to ask you about other investigations that
11 the defendant talked to you about. Okay?

12 Earlier, yesterday I asked you about a name Anthony
13 Anastasia.

14 A. Yes.

15 Q. Do you know Anthony Anastasia? Just remind the jury.

16 A. I do.

17 Q. How do you know him?

18 A. I know him from Gables. Gables was a bar in North
19 Buffalo. He tended bar there. We had mutual friends.

20 Q. And did the defendant know Anthony Anastasia?

21 A. He did, yes.

22 Q. Is Anthony Anastasia someone that you would occasionally
23 get cocaine from for your personal use?

24 A. Yes.

25 Q. Did you ever middle any deals for Anastasia? In other

1 words, someone you knew needed cocaine and got it from

2 Anastasia?

3 A. No, it was just my personal use.

4 Q. Did there come a point in time where the defendant warned

5 you to stay away from Anthony Anastasia because he was under

6 investigation?

7 A. There did, yes.

8 Q. What did the defendant say to you in that regard?

9 A. Well, I told him that I bought from him for personal use.

10 And he said stay away, because he's being looked at.

11 There's an investigation going on with him. So don't do that

12 again.

13 Q. Did you stay away from Anastasia in terms of trying to

14 get cocaine from him?

15 A. Immediately.

16 Q. Eventually did you learn that some point after the

17 defendant told you that, did you learn that Anthony Anastasia

18 was arrested by the DEA?

19 A. I did, yes.

20 Q. What did the defendant tell you about that?

21 A. They arrested him, I believe, at Delaware and Hertel.

22 They got him in custody, and he was gonna be charged.

23 Q. Earlier I asked you about Robert Missana, the bartender

24 at Mother's, who was there was an occasion you were there and

25 he was selling cocaine over the bar.

12:17PM 1 A. Yes.

12:17PM 2 Q. Was the defendant standing next to you when that was
12:17PM 3 happening?

12:17PM 4 A. He was.

12:17PM 5 Q. How far were both of you away from Missana when that was
12:17PM 6 happening?

12:17PM 7 A. We were right in the middle of the bar, and he was
12:17PM 8 serving somebody, so I don't know.

12:17PM 9 Q. Was he closer than you and I are right now?

12:17PM 10 A. A little bit. Yeah.

12:17PM 11 **MR. SINGER:** Your Honor, I'd just like the record to
12:17PM 12 reflect that the distance between Mr. Tripi and Mr. Selva is
12:18PM 13 approximately 10 feet.

12:18PM 14 **MR. TRIPI:** Is that right, Judge? I have no idea.

12:18PM 15 **THE WITNESS:** 3 to 5 feet, I don't know.

12:18PM 16 **BY MR. TRIPI:**

12:18PM 17 Q. What would you estimate?

12:18PM 18 A. We were in the middle of a bar. I don't know, 3 to 5
12:18PM 19 feet from me to the railing where the juror box is.

12:18PM 20 **MR. TRIPI:** 3 to 5 feet is the witness's estimate,
12:18PM 21 Judge.

12:18PM 22 **THE COURT:** The estimate of the distance between
12:18PM 23 Mr. Tripi and the witness is probably about right, I'm not
12:18PM 24 very good at that. A little more than 10 feet would be my --

12:18PM 25 **MR. SINGER:** We'll take your word for it, Judge.

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1 **BY MR. TRIPI:**

2 Q. All right. I want to transition to, we mentioned the

3 stag party a little bit earlier. I want to ask you a little

4 more about that, okay?

5 A. Okay.

6 Q. Was the defendant's stag party in, like, late 2014 before

7 the wedding in February of 2015?

8 A. It was, yes.

9 Q. Where was that stag party?

10 A. Iron Works in the Cobblestone District.

11 Q. Is that a bar sort of near where the Sabres play?

12 A. Yes.

13 Q. Earlier, I asked you if Masecchia was there. I asked you

14 if Wayne Anderson was there; do you remember that?

15 A. Yes.

16 Q. So they were there?

17 A. They were.

18 Q. You were there?

19 A. I was there.

20 Q. What other people do you recall being there?

21 A. Peter Gerace showed up later. His brother-in-law at the

22 time, Tom Napoli. Our friend, Victor Sorrento. Just friends

23 from the neighborhood.

24 Q. Were there a lot of people there?

25 A. 60 to 70.

12:19PM 1 Q. Who arranged the location of that stag party?

12:19PM 2 A. I did. I reached out to the manager who was a friend of

12:19PM 3 mine.

12:19PM 4 Q. Do you recall whether Tom Doctor was there?

12:19PM 5 A. I don't recall.

12:19PM 6 Q. Do you recall whether Mike Piazza was there?

12:19PM 7 A. I believe Mike was there, yes.

12:19PM 8 Q. How about Samir Rizek?

12:20PM 9 A. Yes.

12:20PM 10 Q. Is that that Gassan Rizek's brother?

12:20PM 11 A. I'm not sure, I thought cousin. They might -- I don't

12:20PM 12 know their relation.

12:20PM 13 Q. Do you know whether Joe Palmieri, that TFO from the DEA,

12:20PM 14 was there? Tonawanda detective?

12:20PM 15 A. I believe he was. I don't -- I don't recall. I'm sorry.

12:20PM 16 Q. That's okay. Do you recall whether Joe Tomasello was

12:20PM 17 there?

12:20PM 18 A. I believe he was there, yes.

12:20PM 19 Q. Do you recall whether Dave Hersey was there?

12:20PM 20 A. I believe so, yes.

12:20PM 21 Q. Okay. I'm going to show you Government Exhibit 3540M at

12:21PM 22 page 3. See if this refreshes.

12:21PM 23 You said there were a few people you didn't remember. I

12:22PM 24 want to see if this refreshes your recollection.

12:22PM 25 I accidentally wrote on this piece of paper, just ignore

12:22PM 1 that.

12:22PM 2 **MR. TRIPI:** Do you want to see this?

12:22PM 3 **MR. SINGER:** M as in Mike.

12:22PM 4 **MR. TRIPI:** M as in Mike.

12:22PM 5 **BY MR. TRIPI:**

12:22PM 6 Q. Ignore my handwriting, starting about halfway down?

12:22PM 7 A. Halfway down, all right.

12:23PM 8 Q. Did that refresh your recollection as to some of the
12:23PM 9 names?

12:23PM 10 A. Yes.

12:23PM 11 Q. I might have forgot to ask this. Was Masecchia there?

12:23PM 12 A. Masecchia was there.

12:23PM 13 Q. Did that refresh your recollection as to whether or not
12:23PM 14 Joe Palmieri was there?

12:23PM 15 A. Yes.

12:23PM 16 Q. Was he?

12:23PM 17 A. He was there, yes.

12:23PM 18 **THE COURT:** Good time?

12:23PM 19 **MR. TRIPI:** It's a good time.

12:23PM 20 **THE COURT:** We will take our lunch recess now.

12:23PM 21 Please remember my instructions about not communicating about
12:23PM 22 the case with anyone. Don't use tools of technology to read
12:23PM 23 about the case or to learn about the case.

12:23PM 24 Don't read, watch, or listen to any news coverage
12:23PM 25 about the case, if there is, any while the case is in

1 progress. And don't make up your mind before you start
2 deliberating.

3 We'll see you back here in an hour. Thank you.

4 (Jury excused at 12:24 p.m.)

5 **THE COURT:** Anything for the record, Mr. Singer?

6 **MR. SINGER:** Nothing from me, Judge.

7 **THE COURT:** Mr. Tripi?

8 **MR. TRIPI:** No, thank you, Judge.

9 **THE COURT:** We'll see you folks in about an hour.

10 **THE CLERK:** All rise.

11 (Off the record at 12:24 p.m.)

12 (Back on the record at 1:38 p.m.)

13 (Jury not present.)

14 **THE CLERK:** All rise.

15 **THE COURT:** Please be seated.

16 **THE CLERK:** We are back on the record for the
17 continuation of the jury trial in the United States of America
18 versus Joseph Bongiovanni, 19-cr-227.

19 All counsel and parties are present.

20 **THE COURT:** Our jurors have expressed some concern
21 about how long the trial is going to last, especially the
22 juror that has some medical appointments the week of the 18th,
23 I think.

24 They've also asked if we can go on Fridays. And the
25 answer to that is yes, I think we can pick up at least one

1 full day by going two half Fridays. This Friday doesn't work.
2 But I think next Friday works, and the Friday after that
3 works.

4 I have not checked further than that, but I think we
5 can do at least two full half days -- two full half days? Two
6 half days.

7 **MR. TRIPI:** Just a quick question, Judge. Are they
8 morning half days? Or are they --

9 **THE COURT:** I think they'll be afternoon half days.

10 **MR. TRIPI:** I'm just trying to set up an appointment
11 for, like, a medical situation on a Friday. So I just want to
12 know which --

13 **THE COURT:** Yeah, I think --

14 Where's Rebecca? I think they're going to be
15 afternoon half days.

16 **MR. TRIPI:** Afternoon half days?

17 **THE COURT:** Yeah, I think the mornings I'm going to
18 do the other things, because it's easier to move those things
19 to the mornings.

20 **MR. SINGER:** And, like I said yesterday, Judge, on
21 9/13 which is the Friday in two weeks from now I have a
22 hearing in the morning, so I know that's totally out for me.

23 **THE COURT:** The morning?

24 **MR. SINGER:** Correct.

25 **THE COURT:** Is out. Okay. So it would be the

afternoon anyways.

MR. SINGER: Yes.

THE COURT: Okay. Good.

MR. TRIPI: Okay.

THE COURT: So, yeah, I think it would probably make some sense.

Do you have a sense of when your case is going to be done now?

MR. TRIPI: I think, obviously, we're -- I think we can probably give a better update once we're done with business Monday. Because I think once we get past this witness, we're going to hit some witnesses that are going to be quicker just by the very nature of the testimony. And so I think we can get a good gauge as to where we're at once we get past this witness.

THE COURT: Okay. Great. How much longer do you have with the direct?

MR. TRIPI: Could be 90 minutes, could be two hours, I'm on page 50 of a 65 page outline.

THE COURT: How long do you expect the cross to go?

MR. SINGER: Maybe finish him today, Judge, but I can't make any promises.

THE COURT: No, no, I'm not asking for promises, believe me.

Okay. So when we're finished with this witness or

1 when we're finished with the day, I will talk to the jurors
2 about this and tell them that we're going to go some Fridays,
3 and tell them that we'll have a better gauge for them when the
4 trial will end sometime next week.

5 **MR. TRIPI:** We're going to take a hard look at what
6 we can trim as well --

7 **THE COURT:** Great.

8 **MR. TRIPI:** -- in terms of we'll do our best --

9 **THE COURT:** Terrific.

10 **MR. TRIPI:** -- to actually --

11 **THE COURT:** Good.

12 **MR. TRIPI:** -- whittle it down more.

13 **THE COURT:** Great. Good. Yeah, we'll all work
14 together to get it done as quickly as we can.

15 Okay. Anything we need to do before we bring them
16 back, Mr. Singer?

17 **MR. SINGER:** No, Judge.

18 **THE COURT:** Mr. Tripi.

19 **MR. TRIPI:** No, Your Honor, thank you very much.

20 **THE COURT:** Let's get the witness back in.

21 And, Pat, let's please bring them in.

22 (Witness seated at 1:41 p.m.)

23 (Jury seated at 1:42 p.m.)

24 **THE COURT:** The record will reflect that all our
25 jurors are present.

01:43PM 1 I remind the witness he's still under oath.

01:43PM 2 Mr. Tripi, you may continue.

01:43PM 3 **MR. TRIPI:** Thank you, Your Honor.

01:43PM 4 **BY MR. TRIPI:**

01:43PM 5 Q. Mr. Selva, before the break, I showed you an exhibit,
01:43PM 6 Exhibit 9E-2.

01:43PM 7 **MR. TRIPI:** Ms. Champoux, can we pull it up real
01:43PM 8 quick? And go to the second page.

01:43PM 9 **BY MR. TRIPI:**

01:43PM 10 Q. Do you remember I had you read from this document --

01:43PM 11 A. Yes.

01:43PM 12 Q. -- before the break?

01:43PM 13 Would it be accurate to say that before today, in your --
01:43PM 14 reviewing this while you're on the witness stand, I've never
01:43PM 15 shown you that document before?

01:43PM 16 A. No, you have not.

01:43PM 17 Q. You saw it today for the first time?

01:43PM 18 A. For the first time, yes.

01:43PM 19 **MR. TRIPI:** Can we take that down?

01:43PM 20 **BY MR. TRIPI:**

01:43PM 21 Q. And with respect to Exhibit 8A, do you remember we went
01:43PM 22 through a bunch of names, and we don't need to pull it up,
01:43PM 23 but we went through a bunch of names and phone numbers and
01:43PM 24 subscriber records?

01:43PM 25 A. Yes.

01:43PM 1 Q. I've never shown you that before either, have I?

01:43PM 2 A. No.

01:43PM 3 Q. You saw it for the first time on the --

01:43PM 4 A. First time.

01:43PM 5 Q. -- stand earlier today?

01:44PM 6 A. Yes.

01:44PM 7 Q. All right. I'd like to talk to you a little bit more

01:44PM 8 about the defendant's travel, purchases, financial picture,

01:44PM 9 after he started taking bribes, okay?

01:44PM 10 A. Okay.

01:44PM 11 Q. After the defendant started accepting the bribes, did he

01:44PM 12 purchase a classic Buick?

01:44PM 13 A. I believe so, yes.

01:44PM 14 Q. I'm going to show you what's been marked as -- premarked

01:44PM 15 as Government Exhibit 109AB; do you recognize that?

01:44PM 16 A. Yes.

01:44PM 17 Q. What do you recognize that to be?

01:44PM 18 A. It's the defendant's classic Buick.

01:44PM 19 Q. How do you recognize it?

01:44PM 20 A. I believe I took the picture.

01:44PM 21 Q. Is it a fair and accurate photo of the defendant and his

01:45PM 22 classic Buick when you took that picture?

01:45PM 23 A. Yes.

01:45PM 24 **MR. TRIPI:** The government offers Government

01:45PM 25 Exhibit 109AB.

1 **MR. SINGER:** No objection.

2 **THE COURT:** Received without objection.

3 **(GOV Exhibit 109AB was received in evidence.)**

4 **MR. TRIPI:** Ms. Champoux, can we please publish that,
5 and make sure it's published to the jury. Thank you.

6 **BY MR. TRIPI:**

7 Q. Can you tell the jury where this photo was taken from?

8 A. It was taken from the patio at M.T. Pockets on Hertel,
9 it's a bar. This is on Hertel and Wellington, the corner.

0 Q. And is this in the North Buffalo neighborhood --

1 A. Yes.

2 Q. -- that you grew up in?

3 A. It's in the North Buffalo neighborhood that we grew up
4 in.

5 Q. Is M.T. Pockets one of those bars that you would go to
6 with the defendant, a neighborhood bar?

7 A. On occasion, yes.

8 Q. How about Masecchia?

9 A. Yes.

0 Q. Okay. Is this a vehicle that he bought after the
1 financial arrangement between yourself, him, Serio, Masecchia
2 was consummated?

3 A. I believe so, yes.

4 Q. When he first bought the car, did it look like that?

5 A. No, there was work done to it.

01:46PM 1 Q. Did he -- did he invest in it and make improvements over
01:46PM 2 time?

01:46PM 3 A. Yes.

01:46PM 4 Q. What types of things did he do to make that car look the
01:46PM 5 way it does in the photo?

01:46PM 6 A. I believe a bumper, a paint job, maybe the convertible
01:46PM 7 top, and the interior, there was some work done to that, too.

01:46PM 8 Q. Was that a hobby of his, restoring that vehicle?

01:46PM 9 A. Yes.

01:46PM 10 Q. Did you see it when he first bought it?

01:46PM 11 A. Yes.

01:46PM 12 Q. How did it compare in terms of how it looks from when he
01:46PM 13 first bought it to how it looks in that picture?

01:46PM 14 A. It looks perfect in that picture. When he first bought
01:46PM 15 it, it needed work. Needed some work.

01:46PM 16 Q. Is that the defendant driving the vehicle?

01:46PM 17 A. Yes.

01:46PM 18 Q. Do you know whether he got new tires for the car?

01:47PM 19 A. I'm not sure. I don't recall.

01:47PM 20 **MR. TRIPI:** We can take that down, Ms. Champoux.

01:47PM 21 **BY MR. TRIPI:**

01:47PM 22 Q. Now, earlier we mentioned a residence that he bought at
01:47PM 23 85 Alder Place; do you recall that?

01:47PM 24 A. Yes.

01:47PM 25 Q. Is that a house that he purchased and then moved into

01:47PM 1 with his now wife Lindsay?

01:47PM 2 A. Yes.

01:47PM 3 Q. And where did they move from? Where were they living and

01:47PM 4 where did they move to?

01:47PM 5 A. I believe in Lovering in North Buffalo to the new house.

01:47PM 6 Q. When he moved into the new house, did he purchase things

01:48PM 7 for the house?

01:48PM 8 A. I believe so, yes.

01:48PM 9 Q. What things do you recall him purchasing for the new

01:48PM 10 house he was moving into?

01:48PM 11 A. Garage door. There was some interior updates. I believe

01:48PM 12 he purchased a kitchen island he added. Just cosmetics to

01:48PM 13 the home.

01:48PM 14 Q. Did he get new furniture, if you know?

01:48PM 15 A. New furniture, yes.

01:48PM 16 Q. You mentioned earlier that the defendant worked out at a

01:48PM 17 gym called Fitness Factory?

01:48PM 18 A. For a while, yes.

01:48PM 19 Q. Did he also like to purchase fitness equipment for the

01:48PM 20 house?

01:48PM 21 A. I believe so, yes. He did have fitness equipment in the

01:48PM 22 basement.

01:48PM 23 Q. What type of fitness equipment did he have?

01:48PM 24 A. Treadmill. I think an elliptical. Free weights. Bench.

01:48PM 25 Bar. Weights.

1 Q. Do you know where he purchased that stuff from?

2 A. I don't.

3 **MR. TRIPI:** I'm going to hand up Exhibits 523 and
4 524.

5 **BY MR. TRIPI:**

6 Q. Starting with Exhibit 523, do you recognize that?

7 A. Yes.

8 Q. What do you recognize that to be?

9 A. It's the defendant's home at 85 Alder Place. The front
10 of the house.

11 Q. Is that -- is that a photo of what the house looked like
12 closer in time to when he first obtained it?

13 A. Yes.

14 Q. Did you see it before he did any work to it? Any
15 cosmetic updates?

16 A. Yes.

17 Q. And does the picture in Exhibit 523 fairly and accurately
18 depict what it looked like before the defendant made some
19 upgrades?

20 A. It does, yes.

21 Q. Now looking at Exhibit 524, do you recognize that?

22 A. Yes.

23 Q. What do you recognize it to be?

24 A. It's the defendant's house with a new garage door,
25 landscaping, that's pretty much it.

01:50PM 1 Q. And it's an exterior view?

01:50PM 2 A. It's an exterior view, yes.

01:50PM 3 Q. Does Exhibit 524 fairly and accurately depict what the
01:50PM 4 defendant's exterior of the house looked like after he
01:50PM 5 purchased it and did some upgrades to the front and to the
01:50PM 6 exterior?

01:50PM 7 A. Yes.

01:50PM 8 **MR. TRIPI:** The government offers 523 and 524,
01:50PM 9 Your Honor.

01:50PM 10 **MR. SINGER:** No objection.

01:50PM 11 **THE COURT:** They are received without objection.

01:50PM 12 **(GOV Exhibits 523, 524 were received in evidence.)**

01:50PM 13 **MR. TRIPI:** Ms. Champoux, can we publish 523 and 524
01:50PM 14 for the jury and publish them side by side.

01:51PM 15 **BY MR. TRIPI:**

01:51PM 16 Q. Can you tell the jury what they're looking at in the
01:51PM 17 photo on the left, Exhibit 523?

01:51PM 18 A. Yeah.

01:51PM 19 Q. Tell them.

01:51PM 20 A. It's 85 Alder Place prior to the improvements, which are
01:51PM 21 on the right-hand side.

01:51PM 22 Q. And so what improvements did you describe that are
01:51PM 23 visible on the right-hand side?

01:51PM 24 A. The garage door and landscaping.

01:51PM 25 Q. In your life experience, is landscaping something that

01:51PM 1 can be costly?

01:51PM 2 A. Yes.

01:51PM 3 Q. Did you see improvements to the front yard and the grass

01:51PM 4 and the shrubbery?

01:51PM 5 A. Yes. The lawn, as well. The lawn care.

01:51PM 6 Q. Did the defendant, did he tell you where he got the new

01:52PM 7 garage door from?

01:52PM 8 A. No.

01:52PM 9 Q. Do you know who installed it?

01:52PM 10 A. I don't.

01:52PM 11 Q. Based on your knowledge of the defendant, is he a handy

01:52PM 12 person? Is he a person who does a lot of personal home

01:52PM 13 improvement projects?

01:52PM 14 A. No, just maintenance. But something like this, I don't

01:52PM 15 think so.

01:52PM 16 **MR. TRIPI:** Okay. We can take those down.

01:52PM 17 **BY MR. TRIPI:**

01:53PM 18 Q. You've been inside the defendant's residence at 85 Alder

01:53PM 19 Place?

01:53PM 20 A. I have, yes.

01:53PM 21 Q. You've been in the basement?

01:53PM 22 A. Yes.

01:53PM 23 Q. You've been in the kitchen area?

01:53PM 24 A. Yes.

01:53PM 25 Q. What other parts of the house have you been in?

01:53PM 1 A. The bathroom and the living area in the back.

01:53PM 2 Q. Have you seen his gym equipment in the basement?

01:53PM 3 A. Yes.

01:53PM 4 Q. I'm going to show you Government Exhibit 103-62. Do you
01:53PM 5 recognize that?

01:53PM 6 A. Yes.

01:53PM 7 Q. What do you recognize it to be?

01:54PM 8 A. It's the equipment -- the gym equipment from the
01:54PM 9 defendant's house. An elliptical and a StairMaster and some
01:54PM 10 weights.

01:54PM 11 Q. Is there a rowing machine also?

01:54PM 12 A. A rowing machine too, yes.

01:54PM 13 Q. Does it fairly and accurately depict equipment that
01:54PM 14 you've seen in the defendant's basement at 85 Alder Place?

01:54PM 15 A. Yes.

01:54PM 16 **MR. TRIPI:** The government offers Exhibit 103-62,
01:54PM 17 Your Honor.

01:54PM 18 **MR. SINGER:** No objection.

01:54PM 19 **THE COURT:** Received without objection.

01:54PM 20 **(GOV Exhibit 103-62 was received in evidence.)**

01:54PM 21 **MR. TRIPI:** Can we please publish that, Ms. Champoux,
01:54PM 22 for the jury as well?

01:54PM 23 **BY MR. TRIPI:**

01:54PM 24 Q. Starting left to right on the screen, can you first point
01:54PM 25 out the rowing machine for the jury? Tap the screen. You

01:54PM 1 should get an arrow.

01:54PM 2 A. Rowing machine.

01:54PM 3 Q. Can you point out the elliptical next?

01:54PM 4 And can you point out the treadmill?

01:54PM 5 I'm going to show you Exhibit 103-13. Do you recognize

01:55PM 6 what's depicted in 103-13?

01:55PM 7 A. Yes.

01:55PM 8 Q. What do you recognize that to be?

01:55PM 9 A. A bench with free weights. A bar. And then a rack to

01:55PM 10 place the weights on.

01:55PM 11 Q. Is that also in the defendant's basement?

01:55PM 12 A. Yes.

01:55PM 13 Q. Does it fairly and accurately depict weights you've seen

01:55PM 14 in the defendant's basement?

01:55PM 15 A. Yes.

01:55PM 16 Q. And that is also in the background, sort of, of 103-62 up

01:55PM 17 on your screen; is that right? Maybe you can't see it as

01:55PM 18 well on that screen.

01:55PM 19 A. Yes, it is in the background.

01:55PM 20 **MR. TRIPI:** The government offers Exhibit 103-13,

01:55PM 21 Your Honor.

01:55PM 22 **MR. SINGER:** No objection.

01:55PM 23 **THE COURT:** Received without objection.

01:56PM 24 **(GOV Exhibit 103-13 was received in evidence.)**

01:56PM 25 **MR. TRIPI:** Can we publish them next to each other,

Ms. Champoux? 103-62 and 103-13, please?

BY MR. TRIPI:

Q. And in 103-13, can you circle where you see the weight bench and the weights, Mr. Selva?

Is fitness equipment items that one can purchase with cash?

A. Yes.

Q. When -- have you ever bought weights in your life?

A. No. I've always been a member of a gym. I never bought any weights.

Q. Other than the classic car, do you know what other vehicles the defendant had?

A. Tahoe, a truck.

Q. A Chevy Tahoe?

A. A Chevy Tahoe.

Q. What type of vehicle did his wife drive, if you know?

A. I think an Audi truck or car, I'm not sure. I don't remember.

Q. Earlier you talked about Invicta watches and a Rolex watch; do you recall that?

A. Yes.

Q. I'm going to show you Exhibit 103-20.

Do you recognize what's depicted in Exhibit 103-20?

A. Yes.

Q. What do you recognize that to be?

01:57PM 1 A. It looks like a Rolex on the shelf in the closet.

01:58PM 2 Q. Is there another watch that you recognize as well?

01:58PM 3 A. To the left of it, it's an Invicta.

01:58PM 4 Q. Do you recognize that to be watches that the defendant

01:58PM 5 had?

01:58PM 6 A. Yes.

01:58PM 7 Q. Do they fairly and accurately depict watches that you've

01:58PM 8 seen the defendant with?

01:58PM 9 A. Yes.

01:58PM 10 Q. Showing you Exhibit 103-49. Do you see part of one of

01:58PM 11 the same watches in that photo?

01:58PM 12 A. Yes, to the left.

01:58PM 13 Q. Which watch is that, that you see in that photo?

01:58PM 14 A. That looks like the Rolex.

01:58PM 15 Q. Okay. Does that fairly and accurately depict that

01:58PM 16 portion of the Rolex you see, a watch you've seen the

01:58PM 17 defendant with?

01:58PM 18 A. Yes.

01:58PM 19 **MR. TRIPI:** The government offers Exhibit 103-20 and

01:59PM 20 103-49, Your Honor.

01:59PM 21 **MR. SINGER:** No objection.

01:59PM 22 **THE COURT:** Both are received without objection.

01:59PM 23 **(GOV Exhibits 103-20, 103-49 were received in evidence.)**

01:59PM 24 **MR. TRIPI:** Ms. Champoux, can we start with

01:59PM 25 Exhibit 103-20. And can we zoom in on that shelving area?

01:59PM

1

BY MR. TRIPI:

01:59PM

2

Q. Starting with the watch that has the red background

01:59PM

3

there, do you see that?

01:59PM

4

A. Yes.

01:59PM

5

Q. What do you recognize that to be?

01:59PM

6

A. A Rolex.

01:59PM

7

Q. And there's -- might be a little glare, but do you see a

01:59PM

8

watch to the left of that as well?

01:59PM

9

A. Yes.

01:59PM

10

Q. And what do you recognize that to be?

01:59PM

11

A. An Invicta.

01:59PM

12

MR. TRIPI: And can we pull up 103-49?

01:59PM

13

BY MR. TRIPI:

01:59PM

14

Q. Does this show part of that same watch that you described

02:00PM

15

as looking like the Rolex?

02:00PM

16

A. Yes.

02:00PM

17

Q. Did you know Michael Masecchia to also have a Rolex?

02:00PM

18

A. Yes.

02:00PM

19

Q. Did you have a Rolex?

02:00PM

20

A. No.

02:00PM

21

Q. Earlier you mentioned the defendant taking trips to, I

02:00PM

22

think, Las Vegas, New York City, Florida; do you recall that?

02:00PM

23

A. I do.

02:00PM

24

Q. Do you know whether or not he also traveled to Toronto?

02:00PM

25

A. I believe so, yes.

02:01PM 1 Q. Do you know how many times?

02:01PM 2 A. Once that I was aware of.

02:01PM 3 **MR. TRIPI:** One moment please, Your Honor.

02:01PM 4 **BY MR. TRIPI:**

02:01PM 5 Q. Do you know how many trips per year the defendant would
02:01PM 6 take?

02:01PM 7 A. One or two.

02:01PM 8 Q. Is that your best estimate?

02:01PM 9 A. Yes.

02:01PM 10 Q. Now, earlier you indicated that you had been to
02:02PM 11 Mr. Serio's house at 697 Lebrun?

02:02PM 12 A. Yes.

02:02PM 13 Q. Approximately how many times?

02:02PM 14 A. Few. Two, three.

02:02PM 15 Q. Were all your trips for purposes of the drug conspiracy
02:02PM 16 you were involved in?

02:02PM 17 A. Yes. To talk to Ron, meet Mike there, yes.

02:02PM 18 Q. So those were all business related?

02:02PM 19 A. Yes.

02:02PM 20 Q. Who was there on the occasions were you there? Earlier
02:02PM 21 you mentioned you had seen R.K. leaving?

02:02PM 22 A. Yes.

02:02PM 23 Q. Who else have you seen there?

02:02PM 24 A. Myself, Mike, Ron, Mark Falzone.

02:02PM 25 Q. Anybody else that you recall?

02:02PM 1 A. No one else I can recall.

02:02PM 2 Q. Okay. In April of 2017, did you learn that Ron Serio had
02:03PM 3 been arrested?

02:03PM 4 A. Yes.

02:03PM 5 Q. How did you find out?

02:03PM 6 A. Mike Masecchia told me.

02:03PM 7 Q. How did he tell you?

02:03PM 8 A. Called me and he said I gotta stop by.

02:03PM 9 He stopped by my house, and he told me that Ron had been
02:03PM 10 busted, had been arrested.

02:03PM 11 Q. What did Masecchia tell you about Ron's bust at that
02:03PM 12 point?

02:03PM 13 A. He didn't know much about it. He just said that he'd
02:03PM 14 been arrested, everything's shutting down. Start clearing
02:03PM 15 things out.

02:03PM 16 Q. In April of 2017, were any of the outdoor grow plants in
02:03PM 17 the ground yet?

02:03PM 18 A. No.

02:03PM 19 Q. Did you clear out anything out of your house at that
02:04PM 20 point?

02:04PM 21 A. I wasn't started yet. It would have started in May.

02:04PM 22 There was -- there was nothing in my house that was going.

02:04PM 23 Q. Nothing active?

02:04PM 24 A. Active.

02:04PM 25 Q. Initially were you confused wondering how Ron could get

02:04PM 1 arrested?

02:04PM 2 A. Yes.

02:04PM 3 Q. Why did that confuse you?

02:04PM 4 A. Because of what has been going on. Because there was a
02:04PM 5 figure being paid, and we were supposed to be under a
02:04PM 6 watchful eye.

02:04PM 7 Q. Whose watchful eye?

02:04PM 8 A. The defendant's. We were supposed to be tipped off, and
02:04PM 9 that didn't happen.

02:04PM 10 Q. Shortly after you learned about Ron Serio's arrest, did
02:04PM 11 you call the defendant?

02:04PM 12 A. I did.

02:04PM 13 Q. Why did you call him?

02:04PM 14 A. I wanted to get some information.

02:04PM 15 Q. So did you call because Ron was arrested?

02:04PM 16 A. Yes.

02:04PM 17 Q. Did you learn that Ron was arrested on or about April 18,
02:05PM 18 2017?

02:05PM 19 A. Yes.

02:05PM 20 Q. Is that the same day that Masecchia visited you?

02:05PM 21 A. Yes.

02:05PM 22 **MR. TRIPI:** Ms. Champoux, can we please publish
02:05PM 23 Exhibit 358 in evidence.

02:05PM 24 And please go to the PDF that says 190131677 bills
02:05PM 25 dot PDF. Thank you.

02:05PM 1 And can we just -- I want to just look at a couple
02:05PM 2 things.

02:05PM 3 **BY MR. TRIPI:**

02:05PM 4 Q. Mr. Selva, can you please just read what it says is the
02:05PM 5 billing address there?

02:05PM 6 A. DEA New York division. 99 10th Avenue, New York,
02:06PM 7 New York, 10011-4713.

02:06PM 8 **MR. TRIPI:** And, Ms. Champoux, can you scroll down
02:06PM 9 just a little bit, please? Okay.

02:06PM 10 **BY MR. TRIPI:**

02:06PM 11 Q. Do you see what phone number this Verizon wireless bill
02:06PM 12 relates to?

02:06PM 13 A. Yes.

02:06PM 14 Q. What number is that?

02:06PM 15 A. That's the defendant's old number, 716-818-0966.

02:06PM 16 Q. That was the phone number he had on his DEA phone?

02:06PM 17 A. Yes.

02:06PM 18 Q. And you had that number?

02:06PM 19 A. Yes.

02:06PM 20 Q. Before I go further, during your discussions with the
02:07PM 21 defendant while he's having your back and taking bribes, did
02:07PM 22 you and the defendant during that time period ever discuss
02:07PM 23 what you should say if anyone ever came to question you?

02:07PM 24 A. Yes.

02:07PM 25 Q. What did the defendant tell you to say if any other

02:07PM 1 member of law enforcement ever tried to question you?

02:07PM 2 A. He said to reach out to him immediately, and he would

02:07PM 3 coach me. But, to say I was his informant. I was working as

02:07PM 4 an informant for him.

02:07PM 5 Q. Was it -- would that have been a lie?

02:07PM 6 A. It would have been a lie.

02:07PM 7 Q. Was that the cover story?

02:07PM 8 A. Yes.

02:07PM 9 Q. And, so, you were able to call this number freely from

02:07PM 10 your known cell phone?

02:07PM 11 A. Correct.

02:07PM 12 **MR. TRIPI:** Ms. Champoux, can we go to page 433 -- or

02:08PM 13 443, I'm sorry. Yep. Can you highlight 419, at 10:47 a.m.

02:08PM 14 **BY MR. TRIPI:**

02:08PM 15 Q. Mr. Selva, is that your phone number highlighted there in

02:08PM 16 blue?

02:08PM 17 A. Yes, it was.

02:08PM 18 Q. And you indicated that you had called Mr. Bongiovanni

02:08PM 19 after you learned of Serio's arrest?

02:08PM 20 A. Yes.

02:08PM 21 Q. Is April 19th about a day after you learned of the

02:08PM 22 arrest?

02:08PM 23 A. It is.

02:08PM 24 **MR. TRIPI:** Scroll down a little further,

02:08PM 25 Ms. Champoux.

02:08PM

1 **BY MR. TRIPI:**

02:08PM

2 Q. So I showed you one call at 10:47 a.m. Do you see

02:08PM

3 another call at 7:13 p.m.?

02:08PM

4 A. Yes.

02:08PM

5 Q. Okay. So after you had contacted the defendant by phone,

02:09PM

6 did you meet up with him?

02:09PM

7 A. After by phone, yes.

02:09PM

8 Q. What did the defendant tell you when you met up with him?

02:09PM

9 A. Obviously, Ron had been busted. Stick with the story.

02:09PM

10 If anyone is to question you, reach out to me. I will prep

02:09PM

11 you and coach you for techniques that are gonna be used, and

02:09PM

12 stick with the story that you're my informant.

02:09PM

13 Q. Did you ask the defendant questions about how it was, how

02:09PM

14 Ron could be arrested and the defendant not know about it, or

02:09PM

15 anything like that?

02:09PM

16 A. Yeah, he was vague on it. He didn't know a lot of

02:09PM

17 information on it.

02:09PM

18 Q. Did the defendant indicate to you that it was not the DEA

02:09PM

19 that arrested Ron?

02:09PM

20 A. Yes. I believe it was Erie County Sheriffs, I thought.

02:10PM

21 I could be wrong. I don't recall.

02:10PM

22 **MR. TRIPI:** You can take that down, Ms. Champoux.

02:10PM

23 **BY MR. TRIPI:**

02:10PM

24 Q. What did he say about whose investigation it was,

02:10PM

25 understanding that it was fresh?

02:10PM 1 A. It wasn't his, so he didn't have a lot of information.

02:10PM 2 Again, I thought that it was -- he had mentioned Erie County

02:10PM 3 Sheriffs. I don't recall. But it was not his investigation.

02:10PM 4 Q. To the best of your recollection, he mentioned the Erie

02:10PM 5 County Sheriffs?

02:10PM 6 A. Yes.

02:10PM 7 Q. Now you worked for the Erie County Sheriff's Office later

02:10PM 8 in life, correct?

02:10PM 9 A. Yes.

02:10PM 10 Q. They have a division of people that work at the jail,

02:10PM 11 correct?

02:10PM 12 A. Correct, that's where I worked, yes.

02:10PM 13 Q. But they also have investigators who do narcotics

02:10PM 14 investigations; is that right?

02:10PM 15 A. Yes.

02:10PM 16 Q. Did the defendant mention to you whether or not he had

02:11PM 17 heard Ron Serio ask for him after Ron was arrested?

02:11PM 18 A. Yes.

02:11PM 19 Q. What did the defendant say about that?

02:11PM 20 A. He was taken aback by it. He said that when Ron was

02:11PM 21 brought into custody, when they brought him in the

02:11PM 22 questioning room, the interview room, he had said that Ron

02:11PM 23 said he would only speak to himself.

02:11PM 24 Q. Speak to --

02:11PM 25 A. The defendant. That he wants to speak to the defendant.

02:11PM 1 Q. Bongiovanni?

02:11PM 2 A. Yes.

02:11PM 3 Q. What was the defendant's demeanor when mentioning to you

02:11PM 4 that Serio asked for him after the arrest?

02:11PM 5 A. He was taken back.

02:11PM 6 Q. What do you mean by that?

02:11PM 7 A. He didn't think that -- it was unexpected. I mean, maybe

02:11PM 8 done more on a private matter, not in an interview room.

02:11PM 9 Q. Did he express concern about the fact that Ron mentioned

02:11PM 10 his name?

02:11PM 11 A. Yes.

02:11PM 12 Q. What did he -- what concerns did he express?

02:12PM 13 A. The concern was now that there's gonna be questions he'd

02:12PM 14 have to answer. Why is this suspect asking for you in the

02:12PM 15 interview room? Saying he'd speak to you only.

02:12PM 16 Q. Did the defendant say how he would handle that if anyone

02:12PM 17 asked him about his connection to Ron Serio?

02:12PM 18 A. I did, yes.

02:12PM 19 Q. What did the defendant say?

02:12PM 20 A. He was gonna say that he didn't know him. That he never

02:12PM 21 met him, and was gonna play dumb to the whole thing.

02:12PM 22 Q. And in fact, the way things worked out, was it set up so

02:12PM 23 that Serio and the defendant never met face to face?

02:12PM 24 A. That's just how it worked out. That was Masecchia

02:12PM 25 coordinating that. They never did --

02:12PM 1 Q. So my question is: Is that in fact how it was, Serio and
02:12PM 2 the defendant never met face to face?

02:12PM 3 A. They never did, no.

02:12PM 4 Q. Was that by design?

02:12PM 5 A. I guess so, yes.

02:12PM 6 Q. Who set that up?

02:12PM 7 A. That was done through, well, defendant's request. He
02:13PM 8 never wanted to meet with Ron.

02:13PM 9 Q. So the defendant never want to meet with --

02:13PM 10 A. Never wanted to meet with Ron.

02:13PM 11 Q. When you said the defendant indicated he would play
02:13PM 12 stupid, he would play dumb, what was that in regards to?

02:13PM 13 A. If he was questioned, if he was questioned why Ron would
02:13PM 14 ask for him.

02:13PM 15 Q. Okay. Did the defendant reiterate or reinforce to you
02:13PM 16 what you should do if any members of law enforcement
02:13PM 17 approached you?

02:13PM 18 A. Yes.

02:13PM 19 Q. What did he say?

02:13PM 20 A. Again, reach out to him if I was able to first, and he
02:14PM 21 would prep me for the questioning. If not, if they pulled me
02:14PM 22 in, mention that I was his informant, I was working with him
02:14PM 23 as an informant.

02:14PM 24 Q. Was that consistent with what he told you he did for
02:14PM 25 Anthony Gerace at a point earlier --

02:14PM

1 A. Yes.

02:14PM

2 Q. -- when Amherst was interested in Anthony Gerace?

02:14PM

3 A. Yes.

02:14PM

4 Q. Was it your understanding that that had worked in the

02:14PM

5 past?

02:14PM

6 A. Yes.

02:14PM

7 Q. Did you think it was a good plan?

02:14PM

8 A. It sounded good. It made sense.

02:14PM

9 Q. How many times after Serio's arrest in April of 2017 did

02:14PM

10 you meet up with the defendant and go over this part of the

02:15PM

11 plan, the cover story, that you're an informant?

02:15PM

12 A. A few times.

02:15PM

13 Q. Now after Serio was arrested and the aftermath of that,

02:15PM

14 after you talked to Masecchia, after you talked to the

02:15PM

15 defendant, did you bump into Mark Falzone somewhere?

02:15PM

16 A. Yes.

02:15PM

17 Q. Remind the jury who Mark Falzone is in the context of Ron

02:15PM

18 Serio.

02:15PM

19 A. Mark Falzone is a very close friend of Ron Serio. He was

02:15PM

20 actually his best friend. They grew up together.

02:15PM

21 Q. And Mark was involved in the marijuana distribution?

02:15PM

22 A. He was.

02:15PM

23 Q. Where did you -- where did you happen to bump into Mark

02:16PM

24 Falzone after Serio was arrested?

02:16PM

25 A. Home Depot, I believe. I was at Home Depot.

02:16PM 1 Q. Did you have an interaction with him?

02:16PM 2 A. Yeah, briefly we talked.

02:16PM 3 Q. Did he say something that made you nervous?

02:16PM 4 A. Yes.

02:16PM 5 Q. What -- what did Mark Falzone say to you?

02:16PM 6 A. He was taken aback that -- that Ron got arrested.

02:16PM 7 Q. What did he say to you?

02:16PM 8 A. He said Ron got arrested. Ron got busted.

02:16PM 9 And I already knew that. So what happened?

02:16PM 10 'Cuz Ron was aware what was -- was going on -- or, Mark

02:16PM 11 was aware of what was going on.

02:16PM 12 Q. Was Mark questioning you as to how Ron could get

02:16PM 13 arrested?

02:16PM 14 A. Yes.

02:16PM 15 Q. What did he say?

02:16PM 16 A. How could it happen? I thought that there was an

02:16PM 17 arrangement made with the defendant. He mentioned him by

02:16PM 18 name. 'Cuz Ron made Mark very aware of what was going on,

02:16PM 19 they were very close.

02:16PM 20 Q. At the time, did you know that Mark knew that

02:16PM 21 information?

02:16PM 22 A. I did, yes.

02:16PM 23 Q. At that moment in time?

02:16PM 24 A. Not at that moment in time, no.

02:17PM 25 Q. Did that make you nervous?

02:17PM 1 A. It did, yes.

02:17PM 2 Q. How did you react to that?

02:17PM 3 A. I didn't know what to say. I mean, it took me off guard.

02:17PM 4 I got nervous. Everything was falling apart.

02:17PM 5 Q. Did you take your concerns to Mike Masecchia, the fact

02:17PM 6 that Mark Falzone also knew about the arrangement?

02:17PM 7 A. Yes.

02:17PM 8 Q. What did you say to Mike?

02:17PM 9 A. I told Mike, I says, I told him, I called him

02:17PM 10 immediately, he came over, we met. I says I just ran into

02:17PM 11 Mark Falzone at Home Depot, and he's fully aware of what's

02:17PM 12 going on and he was questioning me about it. So obviously

02:17PM 13 he's fully involved and knows what's going on.

02:17PM 14 Q. Did Masecchia -- what did Masecchia say to you?

02:17PM 15 A. He -- he called Ron "Greenie." He goes, well, Greenie is

02:17PM 16 tight with Mark, so he obviously confided in him and told him

02:17PM 17 everything.

02:17PM 18 Q. Did that concern you?

02:17PM 19 A. It did, yes.

02:17PM 20 Q. Did it seem to concern Mike?

02:18PM 21 A. It did. Because it seems like there were leaks. Like,

02:18PM 22 people were starting to know.

02:18PM 23 Q. As far as you knew up to that point, the only three

02:18PM 24 people who knew were you, Mike and Ron?

02:18PM 25 A. That's it.

02:18PM 1 Q. And this defendant?

02:18PM 2 A. That's correct.

02:18PM 3 Q. I guess that's four people, right?

02:18PM 4 A. Yes, four.

02:18PM 5 Q. After Serio's arrested, and I think we alluded to it

02:18PM 6 earlier, were you having some health issues?

02:18PM 7 A. Yes.

02:18PM 8 Q. What were the nature of your health issues?

02:18PM 9 A. I had open-heart surgery. My aortic valve tore, and I

02:18PM 10 needed to have heart valve replacement.

02:18PM 11 Q. In June or July of 2017, a few months after Ron's

02:18PM 12 arrested, did -- was there a benefit for you?

02:18PM 13 A. Yes.

02:18PM 14 Q. Where was that held?

02:18PM 15 A. At the Knights of Columbus on Kenmore.

02:18PM 16 Q. Was that to raise money for your medical expenses?

02:19PM 17 A. Yes.

02:19PM 18 Q. Who was working the front door collecting the money as

02:19PM 19 people came in?

02:19PM 20 A. Mike. The defendant. Victor, a friend of ours. My

02:19PM 21 daughter, her friends. My older daughter and a few of her

02:19PM 22 friends.

02:19PM 23 Q. When you say "Mike," are you referring to Masecchia?

02:19PM 24 A. Masecchia, yes.

02:19PM 25 Q. And the defendant?

02:19PM

1 A. Yes.

02:19PM

2 Q. Was Mark Falzone at that benefit?

02:19PM

3 A. I believe so, yes.

02:19PM

4 Q. And earlier you mentioned Wayne Anderson being there?

02:19PM

5 A. Yes.

02:19PM

6 Q. Every year, from your involvement up to Ron Serio's

02:19PM

7 arrest, had marijuana trafficking been going on within this

02:19PM

8 organization?

02:19PM

9 A. Yes.

02:20PM

10 Q. Every year, had there been outdoor grows that had

02:20PM

11 transpired in Franklinville and Angelica?

02:20PM

12 A. Up to 2017, yes.

02:20PM

13 Q. In the -- in between those points in time, you grew

02:20PM

14 plants inside your house and stored marijuana?

02:20PM

15 A. Yes.

02:20PM

16 Q. At some point after Serio was arrested, did Masecchia

02:20PM

17 continue operations down the road?

02:20PM

18 A. Not that I was aware of, no. Everything shut down.

02:20PM

19 Q. Your part ended?

02:20PM

20 A. Yes.

02:20PM

21 Q. Did you make efforts to keep apprised or monitor Ron

02:20PM

22 Serio's court case?

02:20PM

23 A. While I was recovering, yes, with open-heart surgery,

02:20PM

24 yes.

02:20PM

25 Q. Did you learn he had been charged in federal court?

02:21PM 1 A. I did.

02:21PM 2 Q. Did you keep in touch with Masecchia?

02:21PM 3 A. Not as much.

02:21PM 4 Q. Did the defendant come visit you while you were

02:21PM 5 recovering?

02:21PM 6 A. Yes, in the hospital. Yes.

02:21PM 7 Q. Did you talk about the progress of Serio's case at all --

02:21PM 8 A. No.

02:21PM 9 Q. -- and what the defendant learned or heard?

02:21PM 10 A. No.

02:21PM 11 Q. As time went on and no one came to talk to you, did you

02:21PM 12 form a belief that Serio was not cooperating?

02:21PM 13 A. Yes.

02:21PM 14 Q. So you thought you were, at some point, you thought you

02:21PM 15 were in the clear?

02:21PM 16 A. Yes. I started to relax a little bit. I had a lot going

02:21PM 17 on.

02:21PM 18 Q. What did you say there?

02:21PM 19 A. I had a lot going on. I just had open-heart surgery, so

02:21PM 20 there was a lot going on.

02:21PM 21 Q. But my question was, as time went on, did your -- did

02:22PM 22 your concern diminish? Did you not think Serio was

02:22PM 23 cooperating?

02:22PM 24 A. I did.

02:22PM 25 Q. Okay. Fast forward now to the summer/fall of 2018, okay?

02:22PM 1 So about a year-plus later?

02:22PM 2 A. Okay.

02:22PM 3 Q. Okay? In the late summer, early fall of 2018, did the

02:22PM 4 defendant alert you to some trouble he was having at work?

02:22PM 5 A. Yes.

02:22PM 6 Q. Was he concerned about something?

02:22PM 7 A. Yes.

02:22PM 8 Q. Did he start talking about retiring?

02:22PM 9 A. He did, yes.

02:22PM 10 Q. What did he tell you he was concerned about at work?

02:22PM 11 A. There being an internal investigation. He was having a

02:22PM 12 problem with an agent that he worked with, and he was gonna

02:22PM 13 take retirement, early retirement and get out.

02:22PM 14 Q. Did he name the -- when you say "an agent," do you mean

02:22PM 15 another DEA agent?

02:22PM 16 A. Yes.

02:22PM 17 Q. Did he name that agent for you?

02:22PM 18 A. He did.

02:22PM 19 Q. Who did he name?

02:22PM 20 A. Tony Casullo.

02:23PM 21 Q. Did the defendant indicate to you his relationship with

02:23PM 22 Peter Gerace had come under scrutiny?

02:23PM 23 A. Yes.

02:23PM 24 Q. What did he say in that regard?

02:23PM 25 A. That he was being questioned about it. That their

relationship had come -- come to realm, and had a lot of eyes on it now, and he had to answer for it.

Q. What was his plan that he expressed to you regarding retiring? What did he say?

A. He was gonna retire, and get a place down in Florida eventually.

Q. Did the defendant talk to you about anyone else whole had done that in a similar situation?

A. Yes.

Q. Who did he talk to you about?

MR. SINGER: Objection. Can we approach, Judge?

THE COURT: Sure.

(Sidebar discussion held on the record.)

MR. SINGER: So I think we're about to go into a place where the Court had made a ruling previously. And this is in regard to Tom Doctor and his retirement, and it being a hasty retirement from the Buffalo Police Department.

So at the last trial, the government attempted to elicit the same testimony to basically draw an analogy between -- that Mr. Bongiovanni was doing the exact same thing here. And the Court ruled on the objection we placed, and sustained the objection. So I just want to make sure we're not going down that road again.

MR. TRIPI: Yeah. So these questions are framed differently. There's been a different foundation laid than

there was the prior time. I'm allowed to try to do better than I did last time.

THE COURT: Of course.

MR. TRIPI: It wasn't a motion in limine ruling. I've abided by those. Rob is right, there was an objection and no testimony.

This time, what's different is I framed in it in the context of these discussions. I did a poor job last time of laying out when it was. Now we're in the context of a discussion of a hasty retirement, and Defendant Bongiovanni linking his decision to something that -- that he knew that happened with Doctor.

And so it's statement of a party opponent --

THE COURT: Hang on. Hang on.

MR. TRIPI: Yeah.

THE COURT: So what he's going to testify?

MR. TRIPI: He's gonna say that --

THE COURT: Doctor retired --

MR. TRIPI: -- Doctor was under suspicion, he retired, went to Florida.

And I'm not sure exactly how it's gonna come out of his mouth, but he -- Bongiovanni referred to that situation in the context of saying I'm under scrutiny at work, I'm gonna retire. And he talks about Doctor.

THE COURT: Is there a link -- Bongiovanni talks

02:25PM 1 about Doctor?

02:25PM 2 **MR. TRIPI:** That's what I believe he's about to
02:25PM 3 testify about. That in the context of this conversation,
02:25PM 4 there's -- there's discussion about Doctor.

02:25PM 5 **THE COURT:** So why wouldn't that be relevant? If
02:25PM 6 Bongiovanni tells him that Doctor did this and he's going to
02:25PM 7 do the same thing, why wouldn't that be relevant?

02:25PM 8 **MR. SINGER:** Sure. So, again, first the problem is
02:25PM 9 it assumes a fact that's not in evidence. There's no evidence
02:26PM 10 about Doctor retiring because of some misconduct incident.
02:26PM 11 And so that's a problem. Number 2 --

02:26PM 12 **THE COURT:** I thought that's what he's gonna testify?

02:26PM 13 **MR. TRIPI:** That's -- I don't know exactly how it
02:26PM 14 will come out, but my belief is that the -- Mr. Selva will
02:26PM 15 make that link.

02:26PM 16 **THE COURT:** Why don't we do it outside the presence
02:26PM 17 of the jury?

02:26PM 18 **MR. TRIPI:** Sure.

02:26PM 19 **MR. COOPER:** Before we leave, can we stay up for one
02:26PM 20 second?

02:26PM 21 I just want to let the Court now and, Rob, obviously
02:26PM 22 you guys as well, Ms. Chalbeck is having some dizziness, and
02:26PM 23 so she just let Rebecca know while we are up here.

02:26PM 24 **THE COURT:** Say it again?

02:26PM 25 **MR. COOPER:** Ms. Chalbeck is having some dizziness.

02:26PM 1 She just let Rebecca know while we are up here, I think,
02:26PM 2 that's why she's not up at the bench, she's going to stay
02:26PM 3 seated. And then if she needs to leave, she's gonna just
02:26PM 4 leave.

02:26PM 5 **THE COURT:** Does this have something to do with her
02:26PM 6 appointment?

02:26PM 7 **MR. COOPER:** I don't know, maybe. So I told her to
02:26PM 8 stay seated.

02:26PM 9 We might want to address it with the jury not in here
02:26PM 10 and just see. I think she might need to hear from you that
02:26PM 11 it's okay.

02:26PM 12 **THE COURT:** Absolutely.

02:26PM 13 **MR. COOPER:** She's a trouper, but --

02:26PM 14 **THE COURT:** Yeah.

02:26PM 15 **MR. COOPER:** -- I don't want her to put herself at
02:27PM 16 risk.

02:27PM 17 **THE COURT:** Yeah.

02:27PM 18 **MR. TRIPI:** Thanks.

02:27PM 19 (End of sidebar discussion.)

02:27PM 20 **THE COURT:** Okay. Folks, we have a legal issue that
02:27PM 21 we're going to need to do outside your presence, so I'm going
02:27PM 22 to excuse you for a little while.

02:27PM 23 Please, while you're excused don't talk about the
02:27PM 24 case, even with each other. And, again, remember not to make
02:27PM 25 up your mind.

02:27PM 1 We'll get you back here as soon as we can get you
02:27PM 2 back here.

02:27PM 3 (Jury excused at 2:27 p.m.)

02:27PM 4 **THE COURT:** Okay. Everybody can sit.

02:27PM 5 First of all, Ms. Chalbeck, I understand that you're
02:28PM 6 feeling a little light-headed. I think that prudence should
02:28PM 7 require you to leave and perhaps just rest a little bit,
02:28PM 8 especially since you have an appointment tomorrow, you said.

02:28PM 9 And I think that we can make the very vanilla
02:28PM 10 statement to the jury now rather than tomorrow. I know you'd
02:28PM 11 like to stay here, but your health comes first and, you know,
02:28PM 12 you do what you want, I'm not excluding you from the
02:28PM 13 courtroom, certainly, I'm just suggesting to you that you
02:28PM 14 might want to take care of yourself first, especially since
02:28PM 15 this is a witness that Mr. Tripi is very ably handling in, you
02:28PM 16 know, without your being here.

02:28PM 17 **MS. CHALBECK:** It is has been a light week for me,
02:28PM 18 Your Honor, I appreciate that, thank you.

02:28PM 19 **THE COURT:** Okay. You do whatever you want. I'm
02:28PM 20 just suggesting you do that.

02:28PM 21 **MR. TRIPI:** What do you want to do?

02:28PM 22 **MS. CHALBECK:** I'm going to go.

02:29PM 23 **MR. TRIPI:** Okay. I think she's going to take the
02:29PM 24 Court's invitation/advice and --

02:29PM 25 **MS. CHALBECK:** Thank you, Judge.

02:29PM 1 **MR. TRIPI:** Thank you for that, Judge. If you can
02:29PM 2 sort of make that vanilla statement to the jury, we'd
02:29PM 3 appreciate it.

02:29PM 4 **THE COURT:** I will, yep. Yep. Yep. As important
02:29PM 5 as, you know, these cases are to me, people are more
02:29PM 6 important, so --

02:29PM 7 **MS. CHALBECK:** I appreciate that, Judge.

02:29PM 8 **THE COURT:** Okay. So let's do the proffer.

02:29PM 9 **MR. TRIPI:** Do you want me to run the questions,
02:29PM 10 Judge, and see how they come out?

02:29PM 11 **THE COURT:** Absolutely. So for the record --

02:29PM 12 **MR. TRIPI:** I'd be more comfortable with that as
02:29PM 13 well.

02:29PM 14 **THE COURT:** For the record, we're now outside the
02:29PM 15 presence of the jury, and Mr. Tripi is going to proffer some
02:29PM 16 testimony, and then we'll let Mr. Singer make an argument and
02:30PM 17 objection as he sees fit.

02:30PM 18
02:30PM 19 **PROFFER OUTSIDE PRESENCE OF JURY - BY MR. TRIPI:**

02:30PM 20 Q. Mr. Selva, you testify a moment ago that the defendant
02:30PM 21 expressed concern about work, Special Agent Casullo, and that
02:30PM 22 his relationship with Peter Gerace had sort of come under
02:30PM 23 scrutiny.

02:30PM 24 When the defendant was discussing these topics with you,
02:30PM 25 and he started mentioning that he's going to retire and move

02:30PM 1 to Florida eventually, did he bring up Tom Doctor's
02:30PM 2 retirement and what Tom Doctor had done?

02:30PM 3 A. Yes, he did.

02:30PM 4 Q. Can you explain for the Court, because the Court's going
02:30PM 5 to need to rule on whether this is going to be allowed to
02:30PM 6 testified in front of the jury, what did the defendant say
02:30PM 7 about Tom Doctor's situation with you?

02:30PM 8 A. Tom Doctor had a situation where he was being
02:30PM 9 scrutinized, possible under investigation, and he immediately
02:30PM 10 retired. He retired, he sold his house in Grand Island, and
02:30PM 11 he moved down to Florida to start over.

02:30PM 12 Q. Did the defendant indicate to you whether -- did he
02:31PM 13 express any view whether that was helpful to Doctor's
02:31PM 14 situation, the scrutiny or anything like that?

02:31PM 15 A. No, he did not.

02:31PM 16 Q. Okay. So he just mentioned that that's what Doctor did?

02:31PM 17 A. Yes.

02:31PM 18 **MR. TRIPI:** Okay. I think that's as far as it would
02:31PM 19 go, Judge.

02:31PM 20 **MR. SINGER:** Again, Judge, I renew the objection,
02:31PM 21 there's no connection to it based on the testimony.

02:31PM 22 **THE COURT:** I agree.

02:31PM 23 **MR. TRIPI:** My only -- I would argue that inference
02:31PM 24 to the jury, that's --

02:31PM 25 **THE COURT:** No, I don't think so.

2 **THE COURT:** I don't think so. If you could have made
3 more of a connection, I would have allowed you to do it, but
4 there's not more.

7 | **THE COURT:** Absolutely.

10 **THE COURT:** I think we should take a little bit more
11 than that. Let's take a little more than that, 10 or 15
12 minutes, our afternoon break now.

14 (Off the record at 2:31 p.m.)

15 (Back on the record at 2:42 p.m.)

16 | (Jury not present.)

17 **THE CLERK:** All rise.

18 | **THE COURT:** Please be seated.

19 **THE CLERK:** We are back on the record for the
20 continuation of the jury trial in United States of America
21 versus Joseph Bongiovanni, 19-cr-227.

22 All counsel and parties are present.

23 **THE COURT:** Okay. Anything that we should do before
24 we bring them back?

25 | **MR. TRIPI:** No, Judge, I just -- on behalf of our

team, I wanted to thank the Court one more time for how you handled the situation with Ms. Chalbeck. We appreciate it.

THE COURT: I would have done that for anybody on either side in any kind of case.

MR. TRIPI: I know.

THE COURT: It's, as I say, that's not -- I don't need to be thanked for it. I care about the people in my courtroom.

So anything from the defense?

MR. SINGER: No, Your Honor.

THE COURT: Okay. So let's get the witness back in, and let's bring them back, please, Pat.

(Witness seated at 2:49 p.m.)

(Jury seated at 2:49 p.m.)

THE COURT: Okay. The record will reflect that all our jurors, again, are present.

You'll notice that one of the government attorneys is not here. She had a matter of some considerable importance that will take her the rest of the day today and tomorrow. And I -- she asked to be excused, and I excused her. I told her I thought she should be excused for the matter that she asked to be excused for. And so you folks shouldn't speculate about anything. She had good reason to leave, and that's why she's not here. Okay?

I remind the witness that he's still under oath.

02:50PM 1 Mr. Tripi, you may continue.

02:50PM 2 **MR. TRIPI:** Thank you, Your Honor.

02:50PM 3

02:50PM 4 **(CONT'D) DIRECT EXAMINATION BY MR. TRIPI:**

02:50PM 5 Q. Before the break, we left off talking about discussions
02:50PM 6 that you had in or about the fall of 2018 where the defendant
02:50PM 7 was bringing up retirement. I'd like to direct your
02:51PM 8 attention forward in time a little bit further in or about
02:51PM 9 January of 2019, so as the calendar turns to 2019.

02:51PM 10 Did you learn around that time that someone named Mike
02:51PM 11 Sinatra's house was raided by law enforcement?

02:51PM 12 A. Yes, I had heard. Yes.

02:51PM 13 Q. Did you know Michael Sinatra to be someone who was
02:51PM 14 associated with the defendant?

02:51PM 15 A. Yes.

02:51PM 16 Q. Did you also learn around that same time Anthony Gerace,
02:51PM 17 who you've talked about, that his house was also raided?

02:51PM 18 A. Yes.

02:51PM 19 Q. How did you hear about Mike Sinatra's house and Anthony
02:51PM 20 Gerace's house being raided, that's a search by law
02:51PM 21 enforcement?

02:51PM 22 A. Well, Anthony Gerace I heard about through Masecchia.
02:51PM 23 Masecchia told me that he had been pulled over, and they
02:51PM 24 raided his house.

02:51PM 25 Q. And how about Mr. Sinatra? How did you learn about that?

02:51PM 1 A. I just heard about that. I just heard. It was just --
02:52PM 2 conversation. It was brought up. I don't recall who said
02:52PM 3 it.

02:52PM 4 Q. After you learned that both Anthony Gerace and Michael
02:52PM 5 Sinatra's house had been searched by law enforcement, did you
02:52PM 6 have an occasion to speak with the defendant about the fact
02:52PM 7 that their houses were searched?

02:52PM 8 A. Yes.

02:52PM 9 Q. What was his general demeanor about the fact that their
02:52PM 10 houses were searched?

02:52PM 11 A. Not -- I mean, he knew -- he knew them both, obviously.

02:52PM 12 Q. Did he say anything about Sinatra?

02:52PM 13 A. He told me that Mike had done some landscaping for him.
02:52PM 14 He did some work for him. Told me what he had got arrested
02:52PM 15 for, I believe, cocaine possession.

02:52PM 16 Q. Do you recall whether or not the defendant expressed to
02:52PM 17 you any concerns about the fact that Sinatra's house was
02:53PM 18 raided?

02:53PM 19 A. I don't recall.

02:53PM 20 Q. I'm going to try to show you something to see if I can
02:53PM 21 refresh your recollection. Okay?

02:53PM 22 A. Okay. Thank you.

02:53PM 23 **MR. TRIPI:** For the record, I'm going to be showing
02:53PM 24 him Exhibit 3540N at page 107. N as in Nancy. Thank you.

25

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BY MR. TRIPI:

Q. I'm going to ask you to read page 107 and 108, up to line 16. I'll make a little mark at the end there, okay?

So 107, the whole page, and 108 up to page -- line 16, please. Okay?

A. Okay.

Q. Read that to yourself, and when you're done, look up.

Will you move those bottles of water so I don't knock them over? Thank you.

Actually can you please read all the way through page 110? Sorry, it's four pages.

Did you read pages 107 to 110 there?

A. Yes.

Q. Did you read page 107, 108, 109, and 110?

A. Yes.

Q. Does that refresh your recollection?

A. Yes.

Q. What did the defendant say about the fact that Mike Sinatra's house was raided?

A. He was concerned, if anything could get tied back to him. I guess Mike had cash in his house, he had \$40,000 in cash, as well as drugs. And he had just done work for him on his house.

Q. What did the defendant say about Anthony Gerace's situation?

02:59PM 1 A. He was worried about Anthony because of -- if anything
02:59PM 2 can come back to him, his relationship with Peter. He was
02:59PM 3 concerned about that, as well.

02:59PM 4 Q. What do you mean if anything could come back to him?

02:59PM 5 A. They would question, like, things would come up with his
02:59PM 6 relationship with Peter. Because he had stepped in before
02:59PM 7 and helped Anthony.

02:59PM 8 Q. The month of those searches, Sinatra and Gerace's
03:00PM 9 searches, did he talk to you more about retiring?

03:00PM 10 A. He did, yes.

03:00PM 11 Q. Was he in fact getting set to retire?

03:00PM 12 A. He was.

03:00PM 13 Q. At that point, did he have another job lined up?

03:00PM 14 A. No, he was just going to take retirement.

03:00PM 15 Q. In discussing those searches, do you believe the
03:00PM 16 defendant was becoming stressed?

03:00PM 17 A. Yes.

03:00PM 18 Q. Were you becoming stressed?

03:00PM 19 A. Yes.

03:00PM 20 Q. Why were you becoming stressed?

03:00PM 21 A. Because the whole organization was about to be exposed.
03:00PM 22 That's how it seemed.

03:00PM 23 Q. Did it make you nervous?

03:00PM 24 A. It did.

03:00PM 25 Q. By January of 2019, had you started your job as a sheriff

03:00PM

1 yet?

03:00PM

2 A. No.

03:00PM

3 Q. Where were you in that application process?

03:01PM

4 A. I was waiting to start the academy. The academy started

03:01PM

5 in March of 2019.

03:01PM

6 Q. So you knew you were accepted and you were gonna be

03:01PM

7 starting that job?

03:01PM

8 A. Yes.

03:01PM

9 Q. When the defendant did retire, did he tell you anything

03:01PM

10 about what he did with that DEA phone, that phone number that

03:01PM

11 you had that we saw earlier, 818-0966?

03:01PM

12 A. I believe he cancelled it.

03:01PM

13 Q. Did he get a new phone number?

03:01PM

14 A. Yes, he did.

03:01PM

15 Q. Did you get that new phone number?

03:01PM

16 A. I did.

03:01PM

17 Q. But for years, your communication with him had been on

03:01PM

18 that DEA phone number we saw earlier?

03:01PM

19 A. Yes, on that phone number.

03:01PM

20 Q. When you were start -- when you were going into the

03:02PM

21 academy to start your job, did that involve some scholastic

03:02PM

22 training as well?

03:02PM

23 A. It did, yes, sir.

03:02PM

24 Q. Were there times when you would go over to the

03:02PM

25 defendant's house and did he help you study?

03:02PM 1 A. He did, yes. Went through different techniques.

03:02PM 2 Q. Would you and him be alone at his house during those
03:02PM 3 times?

03:02PM 4 A. Yes.

03:02PM 5 Q. Did that also provide you with an opportunity to discuss
03:02PM 6 these situations?

03:02PM 7 A. Yes.

03:02PM 8 Q. Fast forwarding --

03:02PM 9 **MR. TRIPI:** Let's pull up Exhibit 109AA, which is in
03:02PM 10 evidence again.

03:02PM 11 **BY MR. TRIPI:**

03:02PM 12 Q. Earlier you said this was a picture from when you
03:02PM 13 graduated the academy?

03:02PM 14 A. Yes.

03:02PM 15 Q. What month was that in 2019?

03:03PM 16 A. I believe that was May of -- May --

03:03PM 17 Q. Okay.

03:03PM 18 A. -- 2019.

03:03PM 19 Q. About a month or so later, on June 6th, 2019, did you
03:03PM 20 learn the defendant's house at 85 Alder Place was searched by
03:03PM 21 members of federal law enforcement?

03:03PM 22 A. Yes.

03:03PM 23 Q. Where were you when you learned it?

03:03PM 24 A. I was actually home. I had heard it. Was in --

03:03PM 25 Q. Let me ask a question. Who did you hear it from first?

03:03PM 1 A. Masecchia.

03:03PM 2 Q. Did you also hear it from your girlfriend?

03:03PM 3 A. And from Kim, yeah, at the time. Yes, sir.

03:03PM 4 Q. What's her name?

03:03PM 5 A. Her name at the time was Kim Mecca.

03:03PM 6 Q. How did it make you feel when you learned that the

03:04PM 7 defendant's house had been raided?

03:04PM 8 A. Uncomfortable. Nervous.

03:04PM 9 Q. What did you do when you found out?

03:04PM 10 A. I couldn't do anything. I mean, just -- tried to go

03:04PM 11 about my life. You know, start this job as a sheriff and lay

03:04PM 12 low. I mean, just go forward.

03:04PM 13 Q. What did you think the search of defendant's house was

03:04PM 14 about?

03:04PM 15 A. Related to what was going on. I mean, in the back of

03:04PM 16 my --

03:04PM 17 Q. This situation that you're testifying about?

03:04PM 18 A. This situation, yes. The organization that we had. So I

03:04PM 19 assumed it was regarding that. It made me very uneasy.

03:04PM 20 Q. In the aftermath of the defendant's house being searched,

03:04PM 21 was he readily accessible to you?

03:04PM 22 A. No.

03:04PM 23 Q. Was he laying low?

03:04PM 24 A. Yes.

03:04PM 25 Q. Was he screening his calls?

03:05PM 1 A. I believe so, yes.

03:05PM 2 Q. What happened to the phone number that you had for him?

03:05PM 3 A. It got turned in. Disconnected.

03:05PM 4 Q. Eventually, how did you try to get ahold of him?

03:05PM 5 A. Believe I stopped over, I reached out to his wife.

03:05PM 6 Q. So you had a number for Lindsay?

03:05PM 7 A. Yes, I sent her a text.

03:05PM 8 Q. And that window of time, when the defendant was laying

03:05PM 9 low, did you speak to Masecchia?

03:05PM 10 A. Yes.

03:05PM 11 Q. Did you discuss with Masecchia any concerns you had about

03:05PM 12 whether the defendant might talk about you guys?

03:05PM 13 A. Yes. It was a big concern. We were both concerned. So,

03:06PM 14 we thought we would just lay low, just not communicate.

03:06PM 15 Q. After a while, did you and the defendant start to

03:06PM 16 communicate again?

03:06PM 17 A. Yes.

03:06PM 18 Q. How did that transition from him not speaking or

03:06PM 19 communicating to communicating with you again?

03:06PM 20 A. Once I got his number, I reached out to him.

03:06PM 21 Q. How did you get his number?

03:06PM 22 A. I believe he gave it to me.

03:06PM 23 Q. Did you stop over his house?

03:06PM 24 A. I stopped over his house, yes.

03:06PM 25 Q. So he gave it to you in person?

03:06PM 1 A. Yeah, in person, I had to stop over at his house to reach
03:06PM 2 out to him.

03:06PM 3 Q. After the search warrant at the defendant's house, did
03:06PM 4 you have a couple of in-person meetings with him?

03:07PM 5 A. A few, yes.

03:07PM 6 Q. Was one of them at his house?

03:07PM 7 A. Yes.

03:07PM 8 Q. After that, did you have another meeting where you walked
03:07PM 9 near Delaware Park?

03:07PM 10 A. Yes.

03:07PM 11 Q. Okay. I want to focus first on when you stopped over his
03:07PM 12 house, okay?

03:07PM 13 When you stopped over, where did you -- did you go into
03:07PM 14 the house? Or did you stay outside? How did that work?

03:07PM 15 A. We were actually talking in front of the house. I
03:07PM 16 knocked on the door, and then we went in the backyard, both
03:07PM 17 inside and outside.

03:07PM 18 Q. What was your discussion when you stopped over the
03:07PM 19 defendant's house?

03:07PM 20 A. See what was going on. How he's doing. Feel him out.
03:07PM 21 What the temperature was. We haven't really been
03:07PM 22 communicating.

03:07PM 23 Q. So what did you say?

03:07PM 24 A. I asked him what happened.

03:07PM 25 Q. And when you asked what happened, were you referencing

03:08PM 1 the search of his house?

03:08PM 2 A. Yes.

03:08PM 3 Q. What did the defendant tell you?

03:08PM 4 A. He didn't tell me a lot. He said that they came in, they

03:08PM 5 knocked his door down, they confiscated computers and stuff

03:08PM 6 from his house, and he was real vague about it.

03:08PM 7 Q. Did he express any concerns about Ron Serio at that

03:08PM 8 point?

03:08PM 9 A. Yes.

03:08PM 10 Q. What did he say?

03:08PM 11 A. He was worried about if they were going to tie him into

03:08PM 12 Ron somehow. Even though they never officially met. It was

03:08PM 13 all through Masecchia.

03:08PM 14 Q. Did the defendant give you any reminders during that

03:08PM 15 conversation?

03:08PM 16 A. Yes. If I was to be reached out by law enforcement, to

03:08PM 17 reach out to him. He would prep me on any interview

03:08PM 18 techniques. Remember, say you were my CI at the time. That

03:09PM 19 type thing.

03:09PM 20 Q. So was that basically going over the cover story that you

03:09PM 21 had?

03:09PM 22 A. Exactly, yes.

03:09PM 23 Q. After that, somewhere near later in July, did you and the

03:09PM 24 defendant meet up and walk near Delaware Park?

03:09PM 25 A. Yes.

03:09PM 1 Q. And that's a -- that's a park in the City of Buffalo?

03:09PM 2 A. Yes.

03:09PM 3 Q. Why did you meet up with the defendant in that area?

03:09PM 4 A. I ran -- I was driving down the street, and he pulled up

03:09PM 5 alongside me. He says follow me, let's go for a walk.

03:09PM 6 That's what we did, that's where we met. We went to Delaware

03:09PM 7 Park.

03:09PM 8 Q. During that walk, did the defendant express concerns

03:10PM 9 about Anthony Gerace and/or Ron Serio?

03:10PM 10 A. Yes.

03:10PM 11 Q. What did he say to you?

03:10PM 12 A. If it was gonna come back to him, Anthony Gerace, he had

03:10PM 13 been arrested. He had reached out and helped Anthony.

03:10PM 14 Anthony was a part of this organization with Ron. He was

03:10PM 15 worried about any tie back from Ron to him. So he was

03:10PM 16 concerned.

03:10PM 17 Q. What were you saying to the defendant?

03:10PM 18 A. I was concerned, too. I didn't -- I didn't have the

03:10PM 19 answer, because I didn't know how it was gonna play out. I

03:10PM 20 was very concerned.

03:10PM 21 **MR. TRIPI:** Just a moment, please, Your Honor.

03:11PM 22 **BY MR. TRIPI:**

03:11PM 23 Q. Now Mr. Selva, about a month or so later, we've talked

03:11PM 24 about it a few times, August 23rd, 2019, was your house

03:11PM 25 raided?

03:11PM

1 A. It was.

03:11PM

2 Q. And did you learn the law enforcement agency had

03:11PM

3 conducted the search of your residence?

03:11PM

4 A. I did.

03:11PM

5 Q. What agency was that?

03:11PM

6 A. Homeland Security.

03:12PM

7 Q. And I'm going to ask you more about that day in a moment.

03:12PM

8 But on that day, did you give Special Agent Marilyn Halliday

03:12PM

9 of the Department of Homeland Security your cell phone, and

03:12PM

10 did you give her consent to search your phone?

03:12PM

11 A. I did.

03:12PM

12 Q. And have you reviewed the data that's been extracted from

03:12PM

13 your phone to verify that it's the contents of your cell

03:12PM

14 phone?

03:12PM

15 A. It was, yes.

03:12PM

16 Q. I'm going to hand you first Government Exhibit 208.

03:12PM

17 A. Okay.

03:12PM

18 Q. Have you reviewed the contents of that flash drive prior

03:12PM

19 to today?

03:12PM

20 A. Yes.

03:13PM

21 Q. And did you initial that, back of that flash drive there?

03:13PM

22 A. I did.

03:13PM

23 Q. And in reviewing the contents, did you verify that was

03:13PM

24 the data that was on your cell phone?

03:13PM

25 A. Yes.

03:13PM 1 Q. Contacts, messages, things of that nature?

03:13PM 2 A. Yes.

03:13PM 3 Q. Was everything fair and accurate for what you had on your

03:13PM 4 phone?

03:13PM 5 A. It was.

03:13PM 6 Q. And in fact, some of the evidence we've used in this

03:13PM 7 trial, like this was a picture that you took with your phone,

03:13PM 8 correct?

03:13PM 9 A. Correct.

03:13PM 10 Q. This exhibit, I've held up 109AB?

03:13PM 11 A. Correct.

03:13PM 12 Q. Right? So is Exhibit 208 an authentic copy of what was

03:13PM 13 on your phone?

03:13PM 14 A. Yes.

03:13PM 15 Q. Next I'm going to hand you Exhibit 208C. I'm going to

03:14PM 16 ask you to take a look at 208C, there's a CD and some paper

03:14PM 17 copies. I'm going to ask you to look at that. And then I'm

03:14PM 18 going to ask you some questions about that, okay?

03:14PM 19 A. Okay.

03:14PM 20 Q. Handing up Exhibit 208C.

03:14PM 21 A. Do you want me to look through this?

03:14PM 22 Q. You look through as much of it as you need to, and when

03:14PM 23 you're done you look up and then I'll ask some questions.

03:14PM 24 A. Okay.

03:14PM 25 Q. Is Exhibit 208C text messages between you and the

defendant that were extracted from your phone when the
defendant was using 716-818-0966?

A. Yes.

Q. Are they fair and accurate as it relates to the messages
that were still on your phone at the time you gave consent to
search?

A. They were.

MR. TRIPI: Judge, I'll offer 208C.

MR. SINGER: No objection.

THE COURT: Received without objection.

(GOV Exhibit 208C was received in evidence.)

MR. TRIPI: Thank you.

BY MR. TRIPI:

Q. I'm going to remove those from you and hand up Exhibit
208D. I want you to do the same thing, look at it and then
I'll ask you some questions.

THE COURT: What is this one, Mr. Tripi?

MR. TRIPI: 208D, as in dog, Your Honor.

THE WITNESS: Okay.

BY MR. TRIPI:

Q. Do you recognize 208D to be a portion of the contacts
that you had stored in your cell phone?

A. Yes.

Q. Are they fair and accurate contacts that you had stored
in your phone as of the time you gave consent to search your

1 phone?

2 A. They are.

3 **MR. TRIPI:** The government offers Exhibit 208D,
4 Your Honor.

5 **MR. SINGER:** No objection.

6 **THE COURT:** Received without objection.

7 **(GOV Exhibit 208D was received in evidence.)**

8 **MR. TRIPI:** Thank you, Your Honor. Counsel.

9 **BY MR. TRIPI:**

10 Q. Next I'm going to hand you up Exhibit 208E. Do you
11 recognize 208E to be thumbnails of images you had stored on
12 your phone?

13 A. Yes.

14 Q. Are they fair and accurate depictions of images you had
15 stored on your phone?

16 A. They are.

17 **MR. TRIPI:** One moment, please.

18 **BY MR. TRIPI:**

19 Q. Next I'm going to hand up 208E-1, 2, 3, 9, 10, 13, 14.

20 So just give me a moment to do that. Handing those exhibits
21 I've just announced up. Can you flip through those, please.

22 Do you recognize Exhibits 208E-1, 2, 3, 9, 10, 13, and
23 14?

24 A. I do.

25 Q. Are those images that were some of the images that were

1 contained on your phone?

2 A. Yes.

3 Q. And are some of those, actually, duplicates of photos
4 we've already put into evidence?

5 A. They are.

6 Q. Do they fairly and accurately depict photos that were on
7 your phone at the time you consented to search?

8 A. They do.

9 **MR. TRIPI:** The government offers 208E-1, 2, 3, 9,
10 10, 13, and 14, Your Honor.

11 **MR. SINGER:** No objection to that series.

12 **THE COURT:** Received without objection.

13 **MR. TRIPI:** Thank you, Your Honor.

14 **(GOV Exhibit 208E-1, 2, 3, 9, 10, 13, 14 were**
15 **received in evidence.)**

16 **BY MR. TRIPI:**

17 Q. Okay. Before I go any further, I want to ask you some
18 questions about some of the exhibits that we've put into
19 evidence. So I'm going to circle back to 208C for a moment,
20 which is in evidence.

21 **MR. TRIPI:** I'm going to ask you to pull that up,
22 Ms. Champoux.

23 **THE COURT:** 208C?

24 **MR. TRIPI:** 208C.

25 **THE COURT:** I don't think that's in.

03:20PM 1 **MR. TRIPI:** That was the first one in the series.

03:20PM 2 **MR. SINGER:** Yeah, that's in, Judge.

03:20PM 3 **THE COURT:** It is?

03:20PM 4 **MR. TRIPI:** Yeah. C, D, and E are of this series.

03:20PM 5 Thank you, Your Honor.

03:20PM 6 Can we blow up the first page a little bit more,

03:20PM 7 Ms. Champoux?

03:20PM 8 **THE CLERK:** Do you want the jury to see this.

03:20PM 9 **MR. TRIPI:** Oh, yes, please.

03:20PM 10 **THE CLERK:** Okay.

03:20PM 11 **MR. TRIPI:** Thank you.

03:20PM 12 **BY MR. TRIPI:**

03:20PM 13 Q. Now, Mr. Selva, your phone number was 903-1654; is that
03:20PM 14 right?

03:20PM 15 A. It was, yes.

03:20PM 16 Q. And this particular exhibit are some texts that you had
03:20PM 17 with the defendant when he had a DEA work phone?

03:20PM 18 A. Yes.

03:20PM 19 Q. And can you just read the first blue bubble text there?
03:20PM 20 Is that from the defendant to you?

03:20PM 21 A. Yes. It says, Bro, what are you guys doing on Wednesday
03:20PM 22 night?

03:20PM 23 Q. And did you respond?

03:21PM 24 A. Yep. No plans. What are you doing?

03:21PM 25 Q. And did the defendant respond?

03:21PM 1 A. We're going out for drinks maybe to casino, Vic and
03:21PM 2 Stephanie are in.

03:21PM 3 Q. So is this basically November 19th --

03:21PM 4 A. Yes.

03:21PM 5 Q. -- 2018?

03:21PM 6 A. Yes.

03:21PM 7 Q. Is this an example of just some of the ways that you and
03:21PM 8 the defendant would make social arrangements?

03:21PM 9 A. Yes.

03:21PM 10 Q. Okay.

03:21PM 11 **MR. TRIPI:** Ms. Champoux, can we go to the second
03:21PM 12 page for a moment?

03:21PM 13 **BY MR. TRIPI:**

03:21PM 14 Q. Again, when you would text, would you ever text any
03:21PM 15 conspiracy business?

03:21PM 16 A. No.

03:21PM 17 Q. Okay. So when you're texting with the defendant, these
03:21PM 18 are social texts?

03:21PM 19 A. They are.

03:21PM 20 **MR. TRIPI:** Can we just scroll through briefly
03:21PM 21 page 3?

03:22PM 22 **BY MR. TRIPI:**

03:22PM 23 Q. For example, when there would be a holiday, like
03:22PM 24 Thanksgiving, would you and the defendant reach out to one
03:22PM 25 another?

03:22PM 1 A. Yeah. Exchange a holiday gesture. Wishing each other
03:22PM 2 happy holiday.

03:22PM 3 Q. On page 3 here, I've made a blue box, does that
03:22PM 4 encapsulate the defendant wishing you a Happy Thanksgiving
03:22PM 5 and you responding?

03:22PM 6 A. It does, yes.

03:22PM 7 Q. Did you and the defendant refer to one other as brother
03:22PM 8 at times?

03:22PM 9 A. Yes.

03:22PM 10 Q. Can you read the text that I've boxed on the bottom of
03:22PM 11 page 3? Is that you responding to the defendant?

03:22PM 12 A. Yes. It says happy birthday -- or, excuse me, happy
03:23PM 13 Thanksgiving, Bro. Love you, brother.

03:23PM 14 **MR. TRIPI:** Let's go to page 4.

03:23PM 15 **BY MR. TRIPI:**

03:23PM 16 Q. Again, examples of social texts between the two of you?

03:23PM 17 A. Yes.

03:23PM 18 Q. Okay. Updating each other about one another's life?

03:23PM 19 A. Exactly, yes.

03:23PM 20 Q. Okay.

03:23PM 21 **MR. TRIPI:** We can take that one down, Ms. Champoux.
03:23PM 22 I'd like to go to the 208E series. We've seen some of these,
03:23PM 23 but can we just pull up 208E-1.

03:23PM 24 **BY MR. TRIPI:**

03:23PM 25 Q. That's the same photo we've seen already, correct?

03:23PM 1 A. Correct.

03:23PM 2 Q. It's also 109AA; is that right?

03:24PM 3 A. Correct.

03:24PM 4 Q. And that photo, 208E-1 is from your graduation from the

03:24PM 5 Sheriff's Office --

03:24PM 6 A. Yes.

03:24PM 7 Q. -- academy?

03:24PM 8 A. Yes.

03:24PM 9 Q. Let's go to 208E-2. Again these are all photos that were

03:24PM 10 on your phone, correct?

03:24PM 11 A. Correct.

03:24PM 12 Q. And when is this picture from?

03:24PM 13 A. That's from Cabo San Lucas at Joe's wedding.

03:24PM 14 Q. Now you were the best man, right?

03:24PM 15 A. Yes.

03:24PM 16 Q. Did the defendant buy you your suit?

03:24PM 17 A. Yes.

03:24PM 18 Q. From where?

03:24PM 19 A. Napoli's.

03:24PM 20 **MR. TRIPI:** Let's go to 208E-3.

03:24PM 21 **BY MR. TRIPI:**

03:24PM 22 Q. This is actually a photo that we showed, we looked at

03:24PM 23 earlier, that you tweeted it out, correct?

03:24PM 24 A. Yes.

03:25PM 25 Q. And this is also from that booze cruise during the

03:25PM 1 wedding?

03:25PM 2 A. I believe so, yes.

03:25PM 3 Q. And I guess for record purposes, that's you and the
03:25PM 4 defendant in the photo?

03:25PM 5 A. Yes.

03:25PM 6 **MR. TRIPI:** Let's go to 208E-10.

03:25PM 7 **BY MR. TRIPI:**

03:25PM 8 Q. Now we haven't seen this photo yet during your testimony,
03:25PM 9 correct?

03:25PM 10 A. Correct.

03:25PM 11 Q. Is that you in the middle?

03:25PM 12 A. Yes.

03:25PM 13 Q. Is that the defendant with you to the left of the
03:25PM 14 picture?

03:25PM 15 A. Yes.

03:25PM 16 Q. Again, is the defendant someone that when you would go
03:25PM 17 out and socialize you were with frequently?

03:25PM 18 A. Yes. From time to time, yes.

03:25PM 19 Q. Was he your best friend?

03:25PM 20 A. Yes.

03:25PM 21 **MR. TRIPI:** Let's go to -- can we split the screen
03:25PM 22 with 208E-14?

03:26PM 23 **MR. COOPER:** 14.

03:26PM 24 **MR. TRIPI:** 14. 208E-14, please.

25

03:26PM

1

BY MR. TRIPI:

03:26PM

2

Q. Again, are those basically pictures of you with the

03:26PM

3

defendant in bars?

03:26PM

4

A. Yes.

03:26PM

5

MR. TRIPI: Let's go to 208E-13.

03:26PM

6

BY MR. TRIPI:

03:26PM

7

Q. Again, that's the same picture that we saw earlier,

03:26PM

8

that's already in evidence as 109AB, you took that photo from

03:26PM

9

your phone, correct?

03:26PM

10

A. Correct.

03:26PM

11

MR. TRIPI: We can take that down, Ms. Champoux.

03:27PM

12

If we can pull up exhibit 208D which is in evidence.

03:27PM

13

BY MR. TRIPI:

03:27PM

14

Q. This is the contact, a portion of the contacts you had

03:27PM

15

stored in your phone; is that right?

03:27PM

16

A. Correct.

03:27PM

17

MR. TRIPI: Ms. Champoux, can we highlight maybe the

03:27PM

18

first three. Or zoom in, I should say, zoom in.

03:27PM

19

BY MR. TRIPI:

03:27PM

20

Q. First contact you have in your phone there is

03:27PM

21

number 716-799-7724 with the name Anthony Gerace?

03:27PM

22

A. Correct.

03:27PM

23

Q. Is that the Anthony Gerace we've been discussing?

03:27PM

24

A. It is.

03:27PM

25

Q. Contact number 2 you have in your phone, there is a guy

03:27PM 1 named Baby Joe. Who is that?

03:27PM 2 A. It's Baby Joe Mesi. He's a friend of mine.

03:27PM 3 Q. A former pro boxer in this area?

03:27PM 4 A. Yes.

03:27PM 5 Q. Is that someone the defendant knew as well?

03:27PM 6 A. Yes.

03:27PM 7 Q. Number 3 contact you have there, is a number 812-0664,

03:28PM 8 you have under the name Gorilla Ape Boy. Who's that?

03:28PM 9 A. That was Mike Masecchia's nickname, Gorilla, because he
03:28PM 10 was a big tough guy.

03:28PM 11 Q. So my question is, is that Mike Masecchia?

03:28PM 12 A. That's his number, yes.

03:28PM 13 **MR. TRIPI:** All right. Can we please highlight 4
03:28PM 14 through 8, please. Or 7, sorry. 4 through 7 is fine. All
03:28PM 15 right.

03:28PM 16 **BY MR. TRIPI:**

03:28PM 17 Q. Contact number 4, you have Gorilla new number. Is that a
03:28PM 18 different phone number you had for Mike Masecchia?

03:28PM 19 A. It was.

03:28PM 20 Q. And then contact 5 is Grover Gorilla. What is that
03:28PM 21 contact?

03:28PM 22 A. That was his work number at Grover. He was a teacher at
03:28PM 23 Grover Cleveland.

03:28PM 24 Q. Mike Masecchia?

03:28PM 25 A. Yes.

03:28PM 1 Q. Grover Cleveland High School is a high school, right?

03:29PM 2 A. It's a high school on the West Side of Buffalo.

03:29PM 3 Q. Contact number 6 is Joe Bella. Who's that?

03:29PM 4 A. He was an acquaintance, a friend, friend of mine.

03:29PM 5 Q. Is that someone the defendant also knew?

03:29PM 6 A. I believe so, yes.

03:29PM 7 **MR. TRIPI:** Let's go down to the next page. I don't
03:29PM 8 need that portion. Let's go down to 9 -- 8 through 11,
03:29PM 9 please.

03:29PM 10 **BY MR. TRIPI:**

03:29PM 11 Q. All right. Contact number 8. Who's Joe Bong?

03:29PM 12 A. That's the defendant.

03:29PM 13 Q. And you had how many different phone numbers stored
03:29PM 14 there?

03:29PM 15 A. Two.

03:29PM 16 Q. Is one of the numbers that he had before his search
03:30PM 17 warrant, and another number he had after the search of his
03:30PM 18 house?

03:30PM 19 A. I believe so, yes.

03:30PM 20 Q. Contact number 9. Who is Krista Masecchia?

03:30PM 21 A. That was Mike Masecchia's wife.

03:30PM 22 Q. Contact number 10. Who is that?

03:30PM 23 A. That was the defendant's wife.

03:30PM 24 Q. Lindsay?

03:30PM 25 A. Yes.

25 **THE COURT:** Health and comfort break?

03:32PM 1 **MR. SINGER:** It's a military term.

03:32PM 2 **THE COURT:** Okay.

03:32PM 3 **MR. SINGER:** That means I gotta pee.

03:32PM 4 **THE COURT:** Yeah, I had never heard that expression.

03:32PM 5 It was in a trial, wasn't it? Yeah, that one of the lawyers

03:32PM 6 asked for a comfort break.

03:32PM 7 Anything from the government?

03:32PM 8 **MR. TRIPI:** No, Your Honor.

03:32PM 9 **THE COURT:** Okay. See you in a few minutes.

03:32PM 10 (Off the record at 3:32 p.m.)

03:43PM 11 (Back on the record at 3:43 p.m.)

03:43PM 12 (Jury not present.)

03:43PM 13 **THE CLERK:** All rise.

03:43PM 14 **THE COURT:** Please be seated.

03:43PM 15 **THE CLERK:** We are back on the record for the

03:43PM 16 continuation of the jury trial in United States of America

03:43PM 17 Joseph Bongiovanni, 19-CR-227.

03:43PM 18 All counsel and parties are present.

03:43PM 19 **THE COURT:** So Ann reminded me that the term I just

03:43PM 20 learned during the trial was "bio break."

03:43PM 21 **MR. TRIPI:** Oh.

03:43PM 22 **THE COURT:** It was bio break. The comfort break, I

03:43PM 23 now remember, I learned on a trip to Ireland --

03:43PM 24 **MR. TRIPI:** Okay.

03:43PM 25 **THE COURT:** -- when we were on the bus and the bus

03:43PM 1 driver said we were taking comfort breaks.

03:43PM 2 **MR. TRIPI:** I think comfort, I like that one better.

03:43PM 3 **THE COURT:** So, correct the record.

03:43PM 4 Anything we need to put on the record before we
03:44PM 5 resume?

03:44PM 6 **MR. TRIPI:** No, Your Honor.

03:44PM 7 **THE COURT:** You're gonna finish today, right?

03:44PM 8 **MR. TRIPI:** Oh, yeah. I have eight pages to go,
03:44PM 9 we're just in a slow part right here.

03:44PM 10 **THE COURT:** Okay. Anything for the record?

03:44PM 11 **MR. SINGER:** I -- I believe bio, bio break is a bad
03:44PM 12 term, it's an Air Force term. So I just like the Navy term
03:44PM 13 better.

03:44PM 14 **THE COURT:** Okay. As I say, I had never heard the
03:44PM 15 term "bio break" until a trial a couple months ago, so --

03:44PM 16 Okay. Let's bring them in, please, Pat.

03:44PM 17 What do the Marines say? That is the question.

03:44PM 18 **MR. SINGER:** They're a whole 'nother animal. They
03:44PM 19 say UGH.

03:44PM 20 **MR. TRIPI:** They pretend they don't take breaks,
03:44PM 21 right, Rob?

03:45PM 22 (Jury seated at 3:45 p.m.)

03:45PM 23 **THE COURT:** The record will reflect that all our
03:45PM 24 jurors, again, are present.

03:45PM 25 I remind the witness he's still under oath.

03:45PM 1 Mr. Tripi, you may continue.

03:45PM 2 **MR. TRIPI:** Thank you, Your Honor.

03:45PM 3 **BY MR. TRIPI:**

03:45PM 4 Q. Mr. Selva, I'm going to direct your attention to contact
03:45PM 5 number 12, that name Mike Buttitta?

03:45PM 6 A. Yes.

03:45PM 7 Q. That's a name that you've talked about earlier today, you
03:45PM 8 saw some phone records related to that person earlier; do you
03:45PM 9 remember that?

03:45PM 10 A. Yes.

03:45PM 11 Q. And who is Mike Buttitta in the context of the
03:45PM 12 organization?

03:45PM 13 A. He was one of Ron's closest friends.

03:45PM 14 Q. Was he a distributor?

03:45PM 15 A. I believe so, yes.

03:45PM 16 Q. And contact 13, is that another number you had for Mike
03:45PM 17 Masecchia?

03:45PM 18 A. Yes. I believe that was his actual home number, it was a
03:46PM 19 landline phone.

03:46PM 20 Q. Is that about the fourth phone number you had in your
03:46PM 21 phone?

03:46PM 22 A. Yeah. They were always changing. And I put them under
03:46PM 23 different references.

03:46PM 24 Q. Contact number 14 is a name Mike Sinatra with a phone
03:46PM 25 number. Do you see that?

03:46PM 1 A. Yes.

03:46PM 2 Q. Is that the same Michael Sinatra that we've been

03:46PM 3 referencing in your discussions with the defendant?

03:46PM 4 A. I believe so, yes.

03:46PM 5 Q. You believe so, or you know?

03:46PM 6 A. It is.

03:46PM 7 Q. Okay. Let's go to contact 15 through 18. There's a name

03:46PM 8 there Peter Gerace with a phone number 716-725-1931.

03:46PM 9 A. Yes.

03:46PM 10 Q. Is that the owner of Pharaoh's you discussed earlier?

03:46PM 11 A. It is.

03:46PM 12 Q. Anthony Gerace's brother?

03:46PM 13 A. It is.

03:46PM 14 Q. And that's this defendant's friend?

03:46PM 15 A. Yes.

03:46PM 16 Q. And who's contact number 16 there?

03:46PM 17 A. Ron Serio.

03:46PM 18 Q. And, again, is that his main phone, or one of his burner

03:47PM 19 phones?

03:47PM 20 A. That might have been his main phone.

03:47PM 21 Q. Okay. Below that is his brother Tom?

03:47PM 22 A. Yes, his brother Tom.

03:47PM 23 Q. And who is in contact position number 18?

03:47PM 24 A. Wayne Anderson.

03:47PM 25 **MR. TRIPI:** Let's go to number 19. Let's highlight

1 maybe zoom in on 19 through 21.

2 **BY MR. TRIPI:**

3 Q. Is number 19 another entry you had in your phone for
4 Wayne Anderson?

5 A. Yes.

6 Q. And contact number 20, who's that?

7 A. Frank Parisi.

8 Q. Is he someone who is also friends with the defendant?

9 A. Yes.

10 Q. Contact number 21, there's a name there, do you see that?

11 A. Yes.

12 Q. And who's that?

13 A. Donnie Panepinto.

14 Q. Is that person the brother of Dana Panepinto as you
15 talked about earlier?

16 A. Yes.

17 Q. That's the defendant's former girlfriend?

18 A. Yes.

19 Q. Is that the person whose father's nickname was Turtle?

20 A. Yes.

21 Q. You talked about him yesterday?

22 A. I did, yes.

23 **MR. TRIPI:** Let's highlight 22 and 23.

24 **BY MR. TRIPI:**

25 Q. Now there's an entry there named Frank Tripi, correct?

03:48PM 1 A. Yes.

03:48PM 2 Q. No relation to mine?

03:48PM 3 A. Correct.

03:48PM 4 Q. Okay. Was he another person who was associated with

03:48PM 5 Anthony Gerace, Ron Serio, and the defendant?

03:48PM 6 A. Yes, he was a North Buffalo guy. Yes.

03:48PM 7 Q. And you have an organization Direct Mediators, what's

03:48PM 8 that?

03:48PM 9 A. That might have been the business he had at the time.

03:48PM 10 Q. Was that a debt collection agency?

03:48PM 11 A. I believe so, yes.

03:48PM 12 **MR. TRIPI:** Can we zoom out of that, Ms. Champoux?

03:49PM 13 Is that the last page?

03:49PM 14 **MS. CHAMPOUX:** No.

03:49PM 15 **MR. TRIPI:** Oops, we've got another page, sorry about

03:49PM 16 that. Let's go to the next three contacts on the list.

03:49PM 17 **BY MR. TRIPI:**

03:49PM 18 Q. All right. Who is Maria Grisanti, do you know?

03:49PM 19 A. Yes. It's Mark Grisanti, who was a former senator, it's

03:49PM 20 his wife.

03:49PM 21 **MR. TRIPI:** Okay. And we can zoom out of that.

03:49PM 22 Let's go to 28 through 30, please.

03:49PM 23 **BY MR. TRIPI:**

03:49PM 24 Q. Number 28, you have a name and a phone number for Nancy

03:49PM 25 Standish. Who is that?

03:49PM 1 A. Just an old friend from knowing in the bar business.

03:49PM 2 Q. Did she -- where does she bar-tend?

03:49PM 3 A. God, she worked -- back in the day, maybe The Stuffed
03:50PM 4 Mushroom, then Crocodile Bar on Chippewa. I forget.

03:50PM 5 Q. And then contact 30, that's that Senator Grisanti you
03:50PM 6 were talking about earlier?

03:50PM 7 A. Correct, yes.

03:50PM 8 **MR. TRIPI:** Let's go to 31 to 33, if we can zoom in
03:50PM 9 on those.

03:50PM 10 **BY MR. TRIPI:**

03:50PM 11 Q. 31 is a person Skip Giambrone. Who's that?

03:50PM 12 A. He's a friend of mine that I've known, not a long time,
03:50PM 13 but I've known him. He's just a friend.

03:50PM 14 Q. Is that someone who knew Masecchia as well?

03:50PM 15 A. He did. He knew Masecchia and Ron.

03:50PM 16 Q. And Mr. Serio?

03:50PM 17 A. Yes.

03:50PM 18 **MR. TRIPI:** And number 33, will you zoom in on 33 so
03:50PM 19 we can see it better?

03:50PM 20 **BY MR. TRIPI:**

03:50PM 21 Q. And who is that?

03:50PM 22 A. Thomas Napoli.

03:50PM 23 Q. Is that a Facebook contact with a phone number?

03:50PM 24 A. I believe so, yes.

03:50PM 25 Q. Is that the person who was in the wedding party that we

1 looked at a picture earlier --

2 A. Yes.

3 Q. -- from your tweets?

4 A. Yes.

5 Q. Is that one of the people that you did cocaine with with
6 the defendant?

7 A. Yes.

8 **MR. TRIPI:** Let's go to 34, 35, and 36.

9 **BY MR. TRIPI:**

10 Q. 34 there, the number's cut off, but it's Bart cell. Who
11 is Bart?

12 A. He's deceased. It's Bart Mazzara, Mike Masecchia's
13 brother-in-law.

14 **MR. TRIPI:** Let's go to 36.

15 **BY MR. TRIPI:**

16 Q. We have a number for Matt Suppa. Is that the same Matt
17 Suppa we looked at? His name and phone number earlier when
18 we looked at Exhibit 8A?

19 A. Yes.

20 Q. His brothers are Mark and John?

21 A. They are.

22 **MR. TRIPI:** Let's go to the next contact. Let's look
23 at 38 and 39.

24 **BY MR. TRIPI:**

25 Q. You've referenced a Joe Tomasello earlier in your

03:52PM 1 testimony as being part of the grow operation group; is that
03:52PM 2 right?

03:52PM 3 A. Correct.

03:52PM 4 Q. That's that same person in your contacts?

03:52PM 5 A. It is.

03:52PM 6 Q. Is that a person who knows the defendant as well?

03:52PM 7 A. Yes.

03:52PM 8 **MR. TRIPI:** Let's go to contact number 40.

03:52PM 9 That's it? Okay. Thank you.

03:52PM 10 **BY MR. TRIPI:**

03:52PM 11 Q. I'd like to hand you up -- we have a few more to go
03:52PM 12 through, 208F, 208G.

03:52PM 13 Let's start with 208F, take a look at that.

03:52PM 14 A. Okay.

03:52PM 15 Q. Are those -- do you recognize those to be text messages
03:52PM 16 between you and the defendant subsequent to the search
03:52PM 17 warrant at his house after he was using phone number
03:53PM 18 716-416-1797?

03:53PM 19 A. Yes.

03:53PM 20 Q. Are those texts from the dates of August 19th and 20th,
03:53PM 21 2019?

03:53PM 22 A. They are, yes.

03:53PM 23 Q. Are they fair and accurate exchanges between you and the
03:53PM 24 defendant as they existed in your cell phone as of the date
03:53PM 25 it was extracted when you consented?

1 A. They are.

2 **MR. TRIPI:** The government offers 208F, Your Honor.

3 **MR. SINGER:** No objection.

4 **THE COURT:** Received without objection.

5 **(GOV Exhibit 208F was received in evidence.)**

6 **BY MR. TRIPI:**

7 Q. I don't think we need to publish these, but basically are
8 these a couple days' worth of text messages where you're
9 talking to one another?

10 A. That's exactly what they look like, yes.

11 Q. Are you -- do you and the defendant reference each other
12 as brothers in these texts?

13 A. In the texts, yes.

14 Q. I'm going to hand you 208G next. Do you recognize
15 Exhibit 208G?

16 A. Yes.

17 Q. Do you recognize that to be text messages between you and
18 the defendant using phone number 716-570-2784 from before --
19 from before when the defendant's house was searched?

20 A. Yes.

21 Q. Are they fair and accurate text messages between you and
22 the defendant as they existed in your cell phone when it was
23 extracted with him using that number?

24 A. Yes.

25 **MR. TRIPI:** The government offers 208G, Your Honor.

03:54PM

1

MR. SINGER: No objection.

03:54PM

2

THE COURT: Received without objection.

03:54PM

3

(GOV Exhibit 208G was received in evidence.)

03:54PM

4

MR. TRIPI: Thank you, Your Honor.

03:55PM

5

I'd like to go through some of these text messages,

03:55PM

6

so can we pull up 208G, please.

03:55PM

7

BY MR. TRIPI:

03:55PM

8

Q. Now earlier you testified when you were studying for --

03:55PM

9

for the academy, there were times when you would go over to

03:55PM

10

the defendant's house?

03:55PM

11

A. Yes. Sorry.

03:55PM

12

Q. And you also indicated, I think, that during some of

03:55PM

13

those visits, you would talk about some of the matters that

03:55PM

14

you're testifying about?

03:55PM

15

A. Yes.

03:55PM

16

MR. TRIPI: I'm going to ask Ms. Champoux to zoom in

03:55PM

17

on row 27.

03:55PM

18

BY MR. TRIPI:

03:55PM

19

Q. Do you see a text exchange between you and the defendant,

03:55PM

20

from the defendant to you on April 5th, 2019?

03:55PM

21

A. Yes.

03:55PM

22

Q. And what did the defendant write there?

03:55PM

23

A. It's just come on over. Come over at that time. Bring

03:56PM

24

your study stuff. Lindsay's working.

03:56PM

25

Q. So on that date, were you and the defendant alone at the

03:56PM 1 defendant's house?

03:56PM 2 A. Yes.

03:56PM 3 Q. Was that a timeframe after he retired but before the
03:56PM 4 search of his house?

03:56PM 5 A. Yes.

03:56PM 6 **MR. TRIPI:** Could we look at row 38, please.

03:56PM 7 **BY MR. TRIPI:**

03:56PM 8 Q. Is that a text from the defendant to you on March 27th,
03:56PM 9 2019?

03:56PM 10 A. Yes.

03:56PM 11 Q. And what did he write there?

03:56PM 12 A. Call me, bro.

03:56PM 13 Q. And is that consistent with how you would text one
03:56PM 14 another when you needed to talk?

03:56PM 15 A. Yes.

03:57PM 16 Q. After the defendant retired, was he trying to get a job?

03:57PM 17 A. He retired, and he was -- yeah.

03:57PM 18 Q. Did you --

03:57PM 19 A. Something part time.

03:57PM 20 Q. Did you have a job that you were about to leave due to
03:57PM 21 your role at the Sheriff's Office?

03:57PM 22 A. Yes, it was a bartending job.

03:57PM 23 Q. Where were you bartending?

03:57PM 24 A. At Fanara's.

03:57PM 25 Q. Where is that located?

03:57PM 1 A. That's an Italian restaurant on Delaware and Tonawanda.

03:57PM 2 Q. Were you the bartender there?

03:57PM 3 A. Two nights a week, yes.

03:57PM 4 Q. Did the defendant express some interest in maybe getting
03:57PM 5 your old job?

03:57PM 6 A. Yeah. Yes.

03:57PM 7 Q. Okay. I'm going to show you --

03:57PM 8 **MR. TRIPI:** You if we can zoom in on rows 50 and 51,
03:57PM 9 Ms. Champoux.

03:57PM 10 **BY MR. TRIPI:**

03:57PM 11 Q. Looking at row 51 first, do you see a text from the
03:57PM 12 defendant on March 15th, 2019?

03:57PM 13 A. Yes.

03:58PM 14 Q. And what did the defendant write to you?

03:58PM 15 A. Bro, will Fanara have an opening when you start the
03:58PM 16 sheriffs? I'm interested.

03:58PM 17 Q. And did you respond to that text?

03:58PM 18 A. I did.

03:58PM 19 Q. What did you respond?

03:58PM 20 A. I said yes, my last shift there is this Monday. You
03:58PM 21 would be a perfect fit there, Bro. I'll tell Joe Monday
03:58PM 22 you're interested. Just brush up on your martinis,
03:58PM 23 Manhattans, muddled Old Fashions. What I do, bro, if I
03:58PM 24 forget is I go to the waitress station out of sight and I
03:58PM 25 just Google it. If you forget a recipe, that's what I was

referencing.

Q. Please keep reading it. Just read it word for word.

A. Google it. You would do great there. Very easy bar to work, and the money is awesome. You serve a lot of food at the bar. Easy, bro.

MR. TRIPI: Can we show row 53, please?

BY MR. TRIPI:

Q. Is this a text from the defendant to you on March 1st, 2019?

A. Yes.

Q. And what did the defendant write to you?

A. Dude, I got a pass Saturday. Lindsay and her friends are going to Belsitos. You want to get out early about 7 for a couple?

Q. Was that the defendant inviting you to meet him at a bar?

A. Yes, just to meet out for drinks.

MR. TRIPI: Okay. We can take those down Ms. Champoux. Thank you.

BY MR. TRIPI:

Q. Now you indicated earlier that after the search warrant, you tried to get ahold of the defendant by initially contacting his wife Lindsay; is that right?

A. That's correct.

Q. And you had her number, so you communicated with her at times?

03:59PM 1 A. Correct.

03:59PM 2 Q. I'm going to show you exhibit 208J. Do you recognize

04:00PM 3 Exhibit 208J?

04:00PM 4 A. I do, yes.

04:00PM 5 Q. What do you recognize those to be?

04:00PM 6 A. Texts between myself and Lindsay.

04:00PM 7 Q. The defendant's wife?

04:00PM 8 A. The defendant's wife.

04:00PM 9 Q. Are they fair and accurate text messages as they existed
04:00PM 10 in your phone at the time it was extracted?

04:00PM 11 A. Yes.

04:00PM 12 **MR. TRIPI:** The government offers Exhibit 208J,

04:00PM 13 Your Honor.

04:00PM 14 **MR. SINGER:** No objection.

04:00PM 15 **THE COURT:** Admitted without objection.

04:00PM 16 **(GOV Exhibit 208J was received in evidence.)**

04:00PM 17 **MR. TRIPI:** Thank you.

04:00PM 18 Ms. Champoux, can we publish Exhibit 208J briefly.

04:00PM 19 If we can highlight row 5 first, please.

04:00PM 20 **BY MR. TRIPI:**

04:00PM 21 Q. First can you read the date of that text, Mr. Selva?

04:00PM 22 A. 6/10/2019.

04:01PM 23 Q. So that's June 10th?

04:01PM 24 A. Correct, June 10th.

04:01PM 25 Q. A couple days after the search warrant at the defendant's

04:01PM 1 house?

04:01PM 2 A. Yes.

04:01PM 3 Q. Had you been trying to get ahold of him?

04:01PM 4 A. I have.

04:01PM 5 Q. Did his wife Lindsay text you?

04:01PM 6 A. Yes, she responded back.

04:01PM 7 Q. What did she say?

04:01PM 8 A. Hey, Lou, just got your message. Joe's fine. We're

04:01PM 9 good. Just hanging out. Love you.

04:01PM 10 Q. Now, had you called Lindsay when you couldn't get ahold
04:01PM 11 of Joe?

04:01PM 12 A. Yes.

04:01PM 13 **MR. TRIPI:** Can we go to row number 4, please,
04:01PM 14 Ms. Champoux.

04:01PM 15 **BY MR. TRIPI:**

04:01PM 16 Q. Did you respond to Lindsay?

04:01PM 17 A. Yes.

04:01PM 18 Q. What did you respond?

04:01PM 19 A. I said, okay. Thank you, Lindsay. If you guys need
04:01PM 20 anything at all, just reach out. Okay. Love you guys.

04:01PM 21 Q. Okay.

04:01PM 22 **MR. TRIPI:** Can we go to row 3 Ms. Champoux?

04:01PM 23 **BY MR. TRIPI:**

04:01PM 24 Q. And did she write you back?

04:01PM 25 A. Yes. Quick response. All is good.

25	A. I do.
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04:04PM 1 Q. What do you recognize that to be?

04:04PM 2 A. Outgoing calls I made to the defendant.

04:04PM 3 Q. Are those call logs between you and the defendant using
04:04PM 4 his number 716-416-1797?

04:04PM 5 A. They are.

04:04PM 6 Q. Is that in July and August of 2019?

04:04PM 7 A. It is, yes.

04:04PM 8 Q. Are they accurate as extracted as the call log data that
04:04PM 9 existed in your phone at the time you consented to its
04:04PM 10 search?

04:04PM 11 A. Yes.

04:04PM 12 **MR. TRIPI:** The government offers Exhibit 208M,
04:04PM 13 Your Honor.

04:04PM 14 **MR. SINGER:** No objection.

04:04PM 15 **THE COURT:** Received without objection.

04:04PM 16 **(GOV Exhibit 208M was received in evidence.)**

04:04PM 17 **MR. TRIPI:** Ms. Champoux, can we pull up exhibit
04:04PM 18 208M.

04:04PM 19 Ms. Champoux, can we actually go down -- can we
04:04PM 20 highlight -- is there a row 247? I'm sorry, my eyes are
04:05PM 21 pretty bad, Ms. Champoux, can we zoom in on the bottom so I
04:05PM 22 can see the dates? Maybe rows 13 and 14.

04:05PM 23 I apologize. Okay.

04:05PM 24 **BY MR. TRIPI:**

04:05PM 25 Q. So is this a phone number that you started calling after

1 the search warrant in communicating with the defendant?

2 A. Yes.

3 Q. And sometimes did you delete the calls that you would
4 make to the defendant if you would make a call?

5 A. Sometimes.

6 **MR. TRIPI:** Okay. Can we zoom out of that,
7 Ms. Champoux. Can we highlight or zoom in on row 8.

8 **BY MR. TRIPI:**

9 Q. Is that an incoming call you received from the defendant?

10 A. Yes, it is.

11 Q. Lasted a couple minutes?

12 A. Two minutes.

13 Q. And what's the date there?

14 A. 7/30/2019.

15 Q. So that's the end of July?

16 A. The end of July.

17 **MR. TRIPI:** Ms. Champoux, can you zoom in on row
18 number 6.

19 **BY MR. TRIPI:**

20 Q. Is that an example of an outgoing call you made to the
21 defendant August 14th, 2019?

22 A. Yes.

23 Q. Did you speak for just a little over a minute there?

24 A. Yes.

25 Q. And that's about nine days before the search warrant at

04:06PM 1 your house; is that right?

04:06PM 2 A. Correct.

04:06PM 3 **MR. TRIPI:** Can we go to row 5, please.

04:06PM 4 **BY MR. TRIPI:**

04:06PM 5 Q. Does that indicate a 19 minute, 12 second call that you
04:06PM 6 and the defendant had with one another on August 16th, 2019?

04:06PM 7 A. Yes.

04:06PM 8 Q. So that's about roughly a week or so before your house
04:07PM 9 got searched?

04:07PM 10 A. Yes.

04:07PM 11 **MR. TRIPI:** Can we go to row 3, please, Ms. Champoux.

04:07PM 12 **BY MR. TRIPI:**

04:07PM 13 Q. Does that indicate a call that's a little less than 12
04:07PM 14 minutes long between you and the defendant on August 19th,
04:07PM 15 2019?

04:07PM 16 A. Yes.

04:07PM 17 Q. And this one's about four days before the search at your
04:07PM 18 house?

04:07PM 19 A. Correct.

04:07PM 20 **MR. TRIPI:** And can we highlight row number 2,
04:07PM 21 Ms. Champoux.

04:07PM 22 **BY MR. TRIPI:**

04:07PM 23 Q. Is that a call between you and the defendant that lasted
04:07PM 24 a little over ten minutes?

04:07PM 25 A. Yes.

04:07PM 1 MR. TRIPI: And let's go to row 1, Ms. Champoux.

04:07PM 2 BY MR. TRIPI:

04:07PM 3 Q. And did you try to call him on August 21st, 2019?

04:07PM 4 A. I did, yes.

04:08PM 5 MR. TRIPI: We can zoom out of that, Ms. Champoux.

04:08PM 6 Thank you.

04:08PM 7 BY MR. TRIPI:

04:08PM 8 Q. Now we just saw some calls, one in the end of July, we

04:08PM 9 saw some calls in August, right, just a moment ago?

04:08PM 10 I'm going to show you Exhibit 208K now.

04:08PM 11 Among the things that were extracted from your phone,

04:08PM 12 things that you had done on your phone were, like, Google

04:08PM 13 searches you made, right?

04:08PM 14 A. Yes.

04:08PM 15 Q. Or searches, internet searches?

04:08PM 16 A. Correct.

04:08PM 17 Q. Was one thing you were searching Anthony Gerace, and

04:08PM 18 Buffalo News articles about Anthony Gerace?

04:08PM 19 A. I was.

04:08PM 20 Q. And by July of 2019, he had been charged after that

04:09PM 21 search warrant we talked about earlier; is that right?

04:09PM 22 A. Correct.

04:09PM 23 Q. And that was concerning to you?

04:09PM 24 A. It was.

04:09PM 25 Q. Do you recognize 208K to be searches of Anthony Gerace

04:09PM 1 that you did in your phone?

04:09PM 2 A. Yes, they are.

04:09PM 3 Q. Are those fair and accurate searches that you did, that

04:09PM 4 you remember doing that were in your phone?

04:09PM 5 A. Yes.

04:09PM 6 **MR. TRIPI:** The government offers Exhibit 208K,

04:09PM 7 Your Honor.

04:09PM 8 **MR. SINGER:** No objection.

04:09PM 9 **THE COURT:** Received without objection.

04:09PM 10 **(GOV Exhibit 208K was received in evidence.)**

04:09PM 11 **MR. TRIPI:** If we can pull up Exhibit 208K,

04:09PM 12 Ms. Champoux. And just zoom in on the box there. Searched

04:09PM 13 items, 9.

04:09PM 14 **BY MR. TRIPI:**

04:09PM 15 Q. So did you make some searches of Anthony Gerace on

04:09PM 16 June 30th, 2019?

04:09PM 17 A. I did, yes.

04:09PM 18 Q. On July 8th, 2019?

04:09PM 19 A. Yes.

04:09PM 20 Q. And July 30th, 2019?

04:10PM 21 A. June 30th, I believe it is.

04:10PM 22 Q. Look at row 1.

04:10PM 23 A. Oh, I'm sorry, I didn't see -- I was looking at the

04:10PM 24 bottom. Yes, correct.

04:10PM 25 Q. And July 30th, 2019, that's the day you had some phone

04:10PM 1 calls earlier in the day with the defendant that we just
04:10PM 2 looked at?

04:10PM 3 A. Yes.

04:10PM 4 Q. And was the end of July, to the best of your
04:10PM 5 recollection, when you walked with the defendant around the
04:10PM 6 Delaware Park area?

04:10PM 7 A. Yes.

04:10PM 8 Q. Was Anthony Gerace a topic of conversation?

04:10PM 9 A. He came up, yes.

04:10PM 10 Q. We just talked about that earlier, right?

04:10PM 11 A. Yes. He was.

04:10PM 12 **MR. TRIPI:** We can zoom out of that Ms. Champoux.

04:10PM 13 **BY MR. TRIPI:**

04:11PM 14 Q. I'm going to show you Government Exhibit 208N, Mr. Selva.

04:11PM 15 **MR. SINGER:** This is N?

04:11PM 16 **MR. TRIPI:** N as in Nancy.

04:11PM 17 **MR. SINGER:** Thank you.

04:11PM 18 **BY MR. TRIPI:**

04:11PM 19 Q. Do you recognize Exhibit 208N?

04:11PM 20 A. I do. Yes.

04:11PM 21 Q. Are those call logs between you and the defendant with
04:11PM 22 his phone number 716-507-2784?

04:11PM 23 A. They were, yes, sir.

04:11PM 24 Q. Are those accurate as the call log data that existed in
04:11PM 25 your phone by the time you gave consent and it was searched?

04:11PM 1 A. Yes.

04:11PM 2 Q. Is it accurate?

04:11PM 3 A. It is, yes.

04:11PM 4 **MR. TRIPI:** The government offers Exhibit 208N,
04:11PM 5 Your Honor.

04:11PM 6 **MR. SINGER:** No objection.

04:11PM 7 **THE COURT:** Received without objection.

04:12PM 8 **(GOV Exhibit 208N was received in evidence.)**

04:12PM 9 **MR. TRIPI:** Thank you, Your Honor.

04:12PM 10 **BY MR. TRIPI:**

04:12PM 11 Q. Mr. Selva, I'm going to ask Ms. Champoux to publish 208N
04:12PM 12 also for the jury. Using this phone number, did you have
04:12PM 13 several times when you called the defendant and -- including
04:12PM 14 an occasion when you spoke to him for a little over seven
04:12PM 15 minutes in April?

04:12PM 16 A. Yes, that's correct.

04:12PM 17 Q. Now those times you tried to get ahold of him in July,
04:12PM 18 did you have another number that you contacted him on that we
04:12PM 19 just looked at a moment ago?

04:12PM 20 A. I did, yes.

04:12PM 21 Q. Okay. Sometimes when you get a new number for somebody,
04:12PM 22 and you have two numbers in your phone, do you sometimes call
04:12PM 23 the old number accidentally?

04:13PM 24 A. Yes.

04:13PM 25 Q. By July 2019, the defendant wasn't using this phone

1 anymore?

2 A. I believe so, yes.

3 **MR. TRIPI:** We can take that down, Ms. Champoux.

4 **BY MR. TRIPI:**

5 Q. Now earlier we talked about the grow locations that were
6 in Franklinville and Angelica that you've been to with
7 Mr. Masecchia; is that right?

8 A. Yes.

9 Q. I'm going to show you two photographs, Government
10 Exhibit 221I (sic) and Government Exhibit 222G.

11 Do you recognize Exhibits 222I and 222G?

12 A. I do.

13 Q. What do you recognize those to be?

14 A. They're myself and Mike Masecchia.

15 Q. And what's the setting of those photos?

16 A. It's at a cabin in Ellicottville on the back deck.

17 Q. Is it in the vicinity of where you guys had some of the
18 grows, outdoor grows?

19 A. Yes, not far away.

20 **MR. TRIPI:** The government offers Exhibit 222I and
21 222G.

22 **MR. SINGER:** No objection.

23 **THE COURT:** Received without objection.

24 **(GOV Exhibits 222I and G were received in evidence.)**

25 **MR. TRIPI:** Can we pull them both up and split the

04:14PM 1 screen, Ms. Champoux?

04:14PM 2 **BY MR. TRIPI:**

04:14PM 3 Q. 222I, is that a picture of you?

04:14PM 4 A. It is.

04:14PM 5 Q. And 222G, is that a picture of Masecchia?

04:14PM 6 A. It is.

04:14PM 7 Q. Were you both shooting guns out there on the property?

04:14PM 8 A. We were. We were target shooting.

04:14PM 9 Q. Do you see the treeline in the back there?

04:15PM 10 A. Um-hum. Yes.

04:15PM 11 Q. Is that generally somewhere out in there where the grows
04:15PM 12 were located?

04:15PM 13 A. Not in this vicinity, no.

04:15PM 14 Q. Where were the grows?

04:15PM 15 A. To the left, about three miles.

04:15PM 16 Q. Okay. So, off camera?

04:15PM 17 A. Off camera on state land.

04:15PM 18 **MR. TRIPI:** Okay. We can take those down,
04:15PM 19 Ms. Champoux.

04:15PM 20 **BY MR. TRIPI:**

04:15PM 21 Q. That brings to me to August 23rd, 2019. We've referenced
04:15PM 22 it a few times, Mr. Selva, but did Homeland Security
04:15PM 23 Investigations execute a search warrant at your house that
04:15PM 24 day?

04:15PM 25 A. Yes, they did.

04:15PM 1 Q. Did they seize some evidence?

04:15PM 2 A. They did, yes.

04:15PM 3 Q. Did that include marijuana grow equipment that you had in
04:15PM 4 your house, some marijuana, as well as firearms that you had?

04:16PM 5 A. Yes.

04:16PM 6 Q. How many firearms did you have that were taken?

04:16PM 7 A. I had a .22 rifle, and a pistol grip shotgun too.

04:16PM 8 Q. And what -- what marijuana grow equipment did you have
04:16PM 9 that was taken?

04:16PM 10 A. A 1000 watt light with a ballast.

04:16PM 11 Q. Anything else? Did you have some pumps and things like
04:16PM 12 that?

04:16PM 13 A. Some pumps. I forget, yes, pumps.

04:16PM 14 Q. Okay.

04:16PM 15 A. Equipment that was used.

04:16PM 16 Q. I'm going to show you some photos first.

04:16PM 17 **MR. TRIPI:** Just give me one moment, please.

04:16PM 18 **BY MR. TRIPI:**

04:16PM 19 Q. Before I get into these, just generally describe what
04:16PM 20 happened that day. Tell the jury what was going on that
04:16PM 21 morning when the search happens.

04:16PM 22 A. I was getting ready to go to work at the sheriff's
04:16PM 23 department. And it was early. It was 6:00 in the morning.
04:17PM 24 Just had a cup of coffee -- actually, it was before that, it
04:17PM 25 was a quarter to 6. And I heard a boom. They came through

04:17PM 1 my front door, and they were in my living room. A search
04:17PM 2 warrant was executed.

04:17PM 3 Q. What was the first thought you had in your head as to why
04:17PM 4 they were there that day?

04:17PM 5 A. Everything that's been transpiring that -- now it's my
04:17PM 6 turn, I'm -- I'm in trouble.

04:17PM 7 Q. Did you think it related to this situation that you're
04:17PM 8 testifying about today?

04:17PM 9 A. Yes, absolutely.

04:17PM 10 Q. Do you remember what the first thing you asked them was?

04:17PM 11 A. I don't recall. I don't remember. It was nerve-racking.

04:17PM 12 Q. After they came in and they started to execute the

04:19PM 13 search, what happened to you? Where did they put you?

04:19PM 14 A. They handcuffed me. They brought me outside while they
04:19PM 15 executed the search.

04:19PM 16 Q. And did they bring you back in?

04:19PM 17 A. They brought me back in after a while, yes.

04:19PM 18 Q. Sit you down?

04:19PM 19 A. Sat me down.

04:19PM 20 Q. Did you give a brief interview?

04:19PM 21 A. Yes.

04:19PM 22 Q. Were you completely honest?

04:19PM 23 A. No.

04:19PM 24 Q. Did you give them all the details that you told this jury
04:19PM 25 over the course of two days?

04:19PM 1 A. At that.

04:19PM 2 Q. Yeah, at that time?

04:19PM 3 A. No. No.

04:19PM 4 Q. That same day, did you -- is that when you gave

04:20PM 5 Ms. Halliday your cell phone to be searched?

04:20PM 6 A. Yes.

04:20PM 7 Q. Did you resign your position that same day at the

04:20PM 8 Sheriff's Office?

04:20PM 9 A. I did.

04:20PM 10 Q. Describe for the jury how that went.

04:20PM 11 A. I was -- when the search was executed and they were done
04:20PM 12 with me, the Sheriff's Department sent their -- a chief down,
04:20PM 13 chief of narcotics. He took me to internal affairs. I met
04:20PM 14 with the internal affairs, and I immediately resigned my
04:20PM 15 position. I wrote a resignation letter.

04:20PM 16 Q. Were the agents going around taking photographs in
04:20PM 17 addition to seizing information?

04:21PM 18 A. They were, yes.

04:21PM 19 Q. I'm going to show you a series of photographs. I'm just
04:21PM 20 going to call them all out at once and hand up the stack.

04:21PM 21 This will be Government Exhibit 200A-17, 200A-18,
04:21PM 22 200A-19, 200A-22, 200A-26, 200A-28, 200A-29, 200A-31,
04:21PM 23 200A-32, 33, 34, and 35. Okay?

04:21PM 24 Going to hand those all up to you now. Just flip through
04:21PM 25 them and look up at me.

04:21PM 1 A. Sure. Thank you.

04:21PM 2 Q. You're welcome. Did you look through each of those
04:22PM 3 exhibits that I just listed?

04:22PM 4 A. I did. Yes.

04:22PM 5 Q. Do each of those fairly and accurately depict items that
04:22PM 6 you had in your house at the time of the search?

04:23PM 7 A. Yes.

04:23PM 8 Q. Those are all different photographs?

04:23PM 9 A. Yes.

04:23PM 10 Q. Do they all fairly and accurately depict things that you
04:23PM 11 had inside your house the day of the search?

04:23PM 12 A. They do.

04:23PM 13 **MR. TRIPI:** The government offers the listed
04:23PM 14 exhibits, Your Honor, 200A-7 -- do you want me to name them
04:23PM 15 all again?

04:23PM 16 **THE COURT:** Mr. Singer?

04:23PM 17 **MR. SINGER:** No objection to the series, Judge.

04:23PM 18 **THE COURT:** They are all admitted.

04:23PM 19 **MR. TRIPI:** Thank you very much.

04:23PM 20 **(GOV Exhibits 200A-17, 18, 19, 22, 26, 28, 29, 31,**
04:23PM 21 **32, 33, 34, and 35 were received in evidence.)**

04:23PM 22 **MR. TRIPI:** Ms. Champoux, can we have pull up
04:23PM 23 Exhibit 200A-17, please?

04:23PM 24 **BY MR. TRIPI:**

04:23PM 25 Q. Is this a photo of a photograph that you had in your

04:23PM 1 house?

04:23PM 2 A. It was, yes.

04:23PM 3 Q. Where did you have this photo posted?

04:23PM 4 A. I believe it was a photo that was in my kitchen.

04:23PM 5 Q. Okay. Are you depicted in the photograph?

04:24PM 6 A. Yes.

04:24PM 7 Q. Is Mr. Bongiovanni?

04:24PM 8 A. Yes.

04:24PM 9 Q. Is he in the white shirt?

04:24PM 10 A. Yes.

04:24PM 11 Q. Closer to the right?

04:24PM 12 A. Yes.

04:24PM 13 Q. Is Tom Napoli also in that picture?

04:24PM 14 A. Yes.

04:24PM 15 Q. The same Tom Napoli that you referenced in your

04:24PM 16 testimony?

04:24PM 17 A. Yes.

04:24PM 18 Q. Can you tap him so the jury can see?

04:24PM 19 **MR. TRIPI:** Okay. We can pull that one down,

04:24PM 20 Ms. Champoux. Can we pull up Exhibit 200 A-18 please. Okay.

04:24PM 21 **BY MR. TRIPI:**

04:24PM 22 Q. Can you tell the jury what's depicted in this photo and

04:24PM 23 on -- specifically looking at the left-hand side of the

04:24PM 24 photo?

04:24PM 25 A. Those were tickets for the benefit that was organized for

me, just to keep track if somebody bought a ticket, who to send a thank you to.

Q. Was that a list you were keeping to write out some thank you cards?

A. Yeah. Somebody had given it to me on a piece of paper and I wrote it in a notebook, these tickets were paid, I have the money, so I just marked them down.

Q. Entry number one, who's the name you wrote down there?

A. Tom Doctor.

Q. Is that the same person that you've been talking about during your testimony?

A. Yes.

Q. And you indicated \$70 this was for two tickets?

A. I believe so, yes.

MR. TRIPI: Okay. Let's take a look at Government Exhibit 200A-19, please.

BY MR. TRIPI:

Q. Is that one of your firearms?

A. It was, yes.

Q. Which one is that?

A. That's a Mossberg pistol grip shotgun.

MR. TRIPI: Can we go to 200A-22, please.

BY MR. TRIPI:

Q. What's depicted in this photograph?

A. That was in a drawer. Stuff that I had.

1 Q. Is there a scale there?

2 A. Yes.

3 Q. And what was the scale used for?

4 A. Weighing marijuana. Small amounts.

5 **MR. TRIPI:** Could we look at 200A-28.

6 **BY MR. TRIPI:**

7 Q. First, where is this location, is this like a hidden
8 location?

9 A. It's in my basement. It was a storage facility that I
10 had built, and it's -- that's a ballast with a light. And
11 then some other stuff in a basket pertaining to the grow
12 operation.

13 Q. Is that marijuana grow equipment?

14 A. Yes.

15 Q. Did you have that concealed? In other words, did the
16 agents have to remove something from the panel there to find
17 that stuff?

18 A. They did, yes.

19 Q. So how did you have it concealed, explain that for the
20 jury?

21 A. There was a door that went over, and there was a piece of
22 rug over the door. This thing right here was just a storage
23 facility. So it was camouflaged, there was a piece of
24 outdoor carpet on top and over the door.

25 Q. I'm going to hand you up Government Exhibit -- got my

1 number right here -- 201. Do you recognize that?

2 A. Yes.

3 Q. What is that?

4 A. It's a 1000 watt grow light with a ballast.

5 Q. Is that what's depicted in the photo, Government Exhibit
6 200A-28?

7 A. Yes.

8 Q. And is that in the same or substantially same condition
9 today as when the agents found it in that part of your house?

10 A. It is, yes.

11 **MR. TRIPI:** The government offers Exhibit 201,
12 Your Honor.

13 **MR. SINGER:** No objection.

14 **THE COURT:** Received without objection.

15 **(GOV Exhibit 201 was received in evidence.)**

16 **MR. TRIPI:** It's large, but I'm publishing it for the
17 jury.

18 **BY MR. TRIPI:**

19 Q. What is the purpose of that?

20 A. That's to grow -- you put the marijuana under it, and
21 it's on a retractor, it goes back and forth on a timer. It's
22 to grow the marijuana.

23 **MR. TRIPI:** Can we pull up Government
24 Exhibit 200A-26, please.

25

04:28PM

1 **BY MR. TRIPI:**

04:28PM

2 Q. What is that?

04:28PM

3 A. That's just stem and shake from the marijuana that was

04:28PM

4 grown, cleanup that never got thrown out.

04:28PM

5 Q. So that's some of the remnants from the parts of the

04:28PM

6 marijuana plant that you don't sell?

04:28PM

7 A. Correct. It's just leaves and stems.

04:28PM

8 **MR. TRIPI:** Can we pull up Government Exhibit

04:28PM

9 200A-31, please.

04:28PM

10 **BY MR. TRIPI:**

04:28PM

11 Q. What is that?

04:28PM

12 A. That's more of that. That's just leaves, shake, and

04:29PM

13 stem.

04:29PM

14 Q. So is that more of the discarded remnants from the actual

04:29PM

15 bud?

04:29PM

16 A. It's discarded, yes.

04:29PM

17 **MR. TRIPI:** Let's pull up 200A-32.

04:29PM

18 **BY MR. TRIPI:**

04:29PM

19 Q. Can you tell the jury what they're looking at there?

04:29PM

20 A. That's just stems and shake, same thing, from marijuana

04:29PM

21 residue or plants that were in my house.

04:29PM

22 Q. Let's look at Government Exhibit 200A-33. Before I ask

04:29PM

23 you about this, did you -- did you have -- other than the

04:29PM

24 grow lamp that you hid and you concealed, did some of the

04:29PM

25 other stuff, did you forget you had it?

1 A. Completely forgot I had it. It was underneath my
2 stairwell.

3 Q. Okay. Had you remembered you had it, given everything
4 that was happening, would you have discarded it?

5 A. Yes.

6 Q. Looking at Government Exhibit 200A-33, what's the jury
7 looking at there?

8 A. Those are little transplant plant buckets or containers
9 that we would transplant in and then bring them outside.

10 Q. So you had them in a black garbage bag there stashed
11 under your stairs?

12 A. Yes.

13 Q. Those were the pots that you would transfer the clones to
14 the country in?

15 A. Yes. When the clones were ready to -- when they were big
16 enough and we brought them out, we would put them in those
17 plants and transport them.

18 Q. Did you forget you had that under your stairs?

19 A. Yes.

20 Q. As you sit there today, do you wish you had thrown that
21 stuff out?

22 A. Absolutely.

23 **MR. TRIPI:** Let's go to Government Exhibit 200A-34.

24 **BY MR. TRIPI:**

25 Q. Is that another photo of you and the defendant somewhere?

04:30PM 1 A. Yes.

04:30PM 2 Q. Where -- what's the back setting of that photo, do you
04:31PM 3 remember?

04:31PM 4 A. I don't recall. Maybe a bar on Hertel. I don't recall.

04:31PM 5 Q. So that's a photo of a photo that was in your house,
04:31PM 6 correct?

04:31PM 7 A. Yes.

04:31PM 8 **MR. TRIPI:** Let's go to 200A-35, please.

04:31PM 9 **BY MR. TRIPI:**

04:31PM 10 Q. And what are we looking at here?

04:31PM 11 A. That's my storage bin in my garage. That's just an empty
04:31PM 12 ballast. There's nothing in it.

04:31PM 13 Q. So there's not an actual lamp in there --

04:31PM 14 A. No.

04:31PM 15 Q. -- but it was similar to Government Exhibit 201 we looked
04:31PM 16 at?

04:31PM 17 A. Same thing, but with no lamp.

04:31PM 18 Q. Were those the two when you had your grow running, the
04:31PM 19 two lamps that you had?

04:31PM 20 A. Yes.

04:31PM 21 Q. And you'd fit, like, 40 plants under there?

04:31PM 22 A. Yes.

04:31PM 23 **MR. TRIPI:** We can pull that down, Ms. Champoux.

04:31PM 24 **BY MR. TRIPI:**

04:31PM 25 Q. What happened at the end of the search that day at your

04:32PM 1 house?

04:32PM 2 A. After I resigned?

04:32PM 3 Q. Yeah. What happened after that?

04:32PM 4 A. My phones were confiscated, and I got -- contacted my
04:32PM 5 lawyer, and that was it.

04:32PM 6 Q. Did you make plans to come in the following Monday at the
04:32PM 7 U.S. Attorney's Office?

04:32PM 8 A. I did. I made plans to come in with my attorney to the
04:32PM 9 U.S. Attorney's Office.

04:32PM 10 Q. Now when law enforcement left that day, did you also
04:32PM 11 receive information or did you learn that Mike Masecchia's
04:32PM 12 residence had been searched the same day?

04:32PM 13 A. On the same day, yes.

04:32PM 14 Q. Did that concern you?

04:32PM 15 A. It did, yes.

04:32PM 16 Q. When did you learn -- in relation to the search that
04:32PM 17 happened at your house, when did you learn about Mike
04:32PM 18 Masecchia's house being searched?

04:32PM 19 A. Not far -- not long after. Actually, right after
04:32PM 20 Homeland Security left.

04:32PM 21 Q. How did you learn that Masecchia's house had also been
04:33PM 22 searched the same day?

04:33PM 23 A. Through Kim, the girl I was with at the time. She got a
04:33PM 24 text.

04:33PM 25 Q. Was Kim friends with Mike's wife?

04:33PM 1 A. She was.

04:33PM 2 Q. Now even though you got an attorney and arranged to come
04:33PM 3 into the U.S. Attorney's Office office and talk that
04:33PM 4 following Monday, were you still torn at that point?

04:33PM 5 A. Yes.

04:33PM 6 Q. Are you still torn as you sit here today?

04:33PM 7 A. Yes.

04:33PM 8 Q. Are you telling the truth?

04:33PM 9 A. Yes.

04:33PM 10 Q. Does it hurt you to do that?

04:33PM 11 A. Yes.

04:33PM 12 Q. After you started coming in in August of 2019, after the
04:33PM 13 search at your house, and meeting with the government, did
04:33PM 14 your relationship with the defendant change?

04:33PM 15 A. Yes. It ceased.

04:33PM 16 Q. You didn't tell him that you were coming in and talking,
04:33PM 17 right?

04:33PM 18 A. No.

04:33PM 19 Q. After the search warrant at your house and after you
04:34PM 20 began meeting with the government, were there occasions,
04:34PM 21 interactions between you and the defendant, that led you to
04:34PM 22 believe the defendant was watching you?

04:34PM 23 A. Yes.

04:34PM 24 Q. Did one such occasion occur after he saw you in traffic
04:34PM 25 and you -- asked you to meet at the bike path in the Town of

04:34PM

1 Tonawanda?

04:34PM

2 A. Yes.

04:34PM

3 Q. Describe that situation for the jury.

04:34PM

4 A. I was driving down Delaware. He pulled up alongside of

04:34PM

5 me. He said follow me, let's talk.

04:34PM

6 And I followed him. We went to the bike path in

04:34PM

7 Tonawanda by TTFA Park.

04:34PM

8 Q. So let me ask, for those who don't live in that area, is

04:34PM

9 there a bike path, like, near a football field?

04:34PM

10 A. TTFA, yes. Town of Tonawanda Football.

04:35PM

11 Q. Is that a bike path that's not far from the defendant's

04:35PM

12 house?

04:35PM

13 A. I believe so, yes, it's close to it.

04:35PM

14 Q. So describe what happened when you and he went and met up

04:35PM

15 at that bike path.

04:35PM

16 A. Parked our cars. We got out. We walked along the bike

04:35PM

17 path. He asked me how am I doing? Are you okay? What

04:35PM

18 happened?

04:35PM

19 I said, no, I'm not okay. I resigned. I don't know

04:35PM

20 what's gonna happen.

04:35PM

21 Q. Were you upset to have resigned your position?

04:35PM

22 A. Yes, but it was the right thing to do.

04:35PM

23 Q. Describe the conversation as it progressed from there.

04:35PM

24 A. I told him what I had done. I resigned my position,

04:35PM

25 because I could no longer go on being a sheriff after what

04:35PM 1 happened.

04:35PM 2 And then I said I don't know what I'm gonna do. I was
04:35PM 3 confused. I didn't know what I was gonna do.

04:35PM 4 And he asked me, did they ask about me? Did they ask
04:35PM 5 questions about me?

04:35PM 6 Q. What did you say to him about that?

04:35PM 7 A. I said no, they didn't.

04:36PM 8 Q. Now, that wasn't true, right?

04:36PM 9 A. That wasn't true.

04:36PM 10 Q. Why didn't you tell him, yeah, they talked about you.

04:36PM 11 A. I just didn't.

04:36PM 12 Q. Had you been -- had you already at this point been in to
04:36PM 13 the U.S. Attorney's Office's office?

04:36PM 14 A. What was the date again on this? This was --

04:36PM 15 Q. You tell me.

04:36PM 16 A. It was right after. No, I had not been to the U.S.

04:36PM 17 Attorney's Office -- yes, I was, I'm sorry. I'm sorry, yes.

04:36PM 18 I'm getting confused.

04:36PM 19 Q. Please continue with the conversation from there.

04:36PM 20 A. That was it. Just what are you gonna do? How are you?

04:36PM 21 Did they ask questions about me?

04:36PM 22 I said no. I got a weird feeling about it, like I was
04:36PM 23 being feeled out.

04:36PM 24 And from that point on, we really didn't communicate
04:36PM 25 anymore.

04:36PM 1 Q. Well, did the defendant -- did the defendant seem nervous
04:36PM 2 during that conversation?

04:36PM 3 A. He did.

04:36PM 4 Q. Did he make you nervous?

04:36PM 5 A. He did. We were both nervous.

04:37PM 6 Q. Was there any conversation at that time between you and
04:37PM 7 him about what you were going to do next for work?

04:37PM 8 A. Yes. I told him I -- I didn't know what I was gonna do.
04:37PM 9 And he says, well, you can go back in sales.

04:37PM 10 I didn't -- I didn't have a plan. I didn't know what was
04:37PM 11 going to happen.

04:37PM 12 Q. How did that comment sit with you, that you can go back
04:37PM 13 to sales?

04:37PM 14 A. It didn't. It didn't sit well at all. I mean, this
04:37PM 15 whole situation was a mess. I was hoping to -- it didn't sit
04:37PM 16 well. I was really confused. It was in a rough time.
04:37PM 17 Speaking off my cuff, I didn't make any sense.

04:37PM 18 Q. At any point in that discussion, did the defendant remind
04:37PM 19 you again of the story to tell if they asked about him?

04:38PM 20 A. Yes.

04:38PM 21 Q. What did he say?

04:38PM 22 A. If he was brought into the equation, if they asked about
04:38PM 23 him, just let them know that I was his informant.

04:38PM 24 Q. In fact after that, were you asked to take a polygraph?

04:38PM 25 A. I did.

04:38PM 1 Q. Did you try, during the course of that interview related
04:38PM 2 to polygraph, to claim you were the defendant's informant?

04:38PM 3 A. I did. And I failed.

04:38PM 4 Q. So you told a lie?

04:38PM 5 A. I told a lie.

04:38PM 6 Q. After that point in time, did you begin telling more and
04:38PM 7 more of what really happened?

04:38PM 8 A. Yes.

04:38PM 9 Q. In or about October 2019, by that point you had several
04:38PM 10 meetings with the government?

04:38PM 11 A. Yes.

04:38PM 12 Q. In fact, was it on or about October 3rd, 2019 when you
04:39PM 13 testified before a federal grand jury?

04:39PM 14 A. Yes.

04:39PM 15 Q. Later that month, did the defendant approach you outside
04:39PM 16 the gym that you both belonged to?

04:39PM 17 A. Yes.

04:39PM 18 **MR. TRIPI:** Withdrawn, I said later that month.

04:39PM 19 **BY MR. TRIPI:**

04:39PM 20 Q. In or about that month, I'm sorry, did he approach you in
04:39PM 21 the vicinity of the gym you both belonged to?

04:39PM 22 A. Yes.

04:39PM 23 Q. Describe that interaction for the jury.

04:39PM 24 A. I was coming out of the gym, and he pulled up alongside
04:39PM 25 of me. And --

04:39PM 1 Q. Were you planning to work out with him like you had in
04:39PM 2 the past?

04:39PM 3 A. No. No. This was purely just -- pulled right up.

04:39PM 4 Q. Was he dressed in gym clothes?

04:39PM 5 A. No.

04:39PM 6 Q. Describe what happened.

04:39PM 7 A. It startled me. I was getting in my truck, he pulled up
04:39PM 8 alongside. It felt like he was watching my vehicle. And he
04:39PM 9 said let's take a ride. Let's talk. Follow me.

04:40PM 10 Q. Did you stay with him there, or did you just talk outside
04:40PM 11 the gym?

04:40PM 12 A. We talked outside the gym for a minute. I mean, there
04:40PM 13 wasn't much to say.

04:40PM 14 Q. Was there another occasion on or about October 24th,
04:40PM 15 after you had testified in the grand jury, and after you had
04:40PM 16 given several interviews where you saw the defendant near a
04:40PM 17 post office?

04:40PM 18 A. Yes.

04:40PM 19 Q. Where was that?

04:40PM 20 A. It was on Hertel near my house. Hertel in North Buffalo.

04:40PM 21 Q. Was the defendant, when he approached you that day, did
04:40PM 22 you notice he was driving a different car?

04:40PM 23 A. He was.

04:40PM 24 Q. What different car was he driving?

04:40PM 25 A. I believe his stepson's vehicle. He had switched

04:40PM 1 vehicles, and he made a weird comment to me like there was a
04:40PM 2 camera at my house. He said oh, you got a security camera.

04:41PM 3 And that was placed there by Homeland Security. And that
04:41PM 4 told me he drove by my house already.

04:41PM 5 Q. And did you give him an excuse for the camera?

04:41PM 6 A. I did. I told him I just bought it. I didn't obviously
04:41PM 7 tell him it was Homeland Security. I just told him I just
04:41PM 8 set it up with what happened, very uneasy with what happened.

04:41PM 9 Q. And so was the defendant driving a vehicle you didn't
04:41PM 10 typically associate with him when he saw you on that
04:41PM 11 occasion?

04:41PM 12 A. Yes.

04:41PM 13 Q. Do you remember what kind of car it was?

04:41PM 14 A. I don't, but it was not his.

04:41PM 15 Q. In close proximity to that interaction, did you come home
04:41PM 16 and find something on your porch?

04:41PM 17 A. Yes.

04:41PM 18 Q. What was on your porch?

04:41PM 19 A. A bottle of Crown Royal, with a note, happy birthday.

04:42PM 20 Q. When was your birthday?

04:42PM 21 A. The day before.

04:42PM 22 Q. What's your birthday?

04:42PM 23 A. October 23rd.

04:42PM 24 Q. Did you immediately contact Homeland Security and turn in
04:42PM 25 the bottle that was on your porch?

1 A. Yes.

2 Q. Was that how you and the defendant normally operated,
3 leaving bottles of alcohol on each other's porches?

4 A. No. We would do it in person, more personable.

5 Q. Did all of those interactions that you've just described
6 lead you to conclude you believed the defendant was watching
7 you?

8 A. Yes.

9 **MR. TRIPI:** I'm going to hand up Government Exhibit
10 209.

11 **MR. SINGER:** I'm sorry, Joe?

12 **MR. TRIPI:** 209.

13 **MR. SINGER:** Thank you.

14 **MR. TRIPI:** You're welcome.

15 **BY MR. TRIPI:**

16 Q. Do you recognize that item?

17 A. I do.

18 Q. What is Government Exhibit 209?

19 A. It's a wrap -- it's a wrapped bottle of alcohol with
20 Happy Birthday, Brother. 55's no jive. Love you, Bonge.

21 Q. Is that the bottle of Crown Royal that was left on your
22 porch?

23 A. Yes.

24 Q. Is that the bottle in the brown paper bag that you turned
25 in to Homeland Security when you found it?

04:43PM 1 A. Yes.

04:43PM 2 Q. As far as you could tell, even though it's in that
04:43PM 3 plastic bag now, as far as you could tell, is it the same or
04:43PM 4 substantially same condition today as it was when you turned
04:43PM 5 it over to Homeland Security?

04:43PM 6 A. It is, yes.

04:43PM 7 **MR. TRIPI:** The government offers Exhibit 209,
04:43PM 8 Your Honor.

04:43PM 9 **MR. SINGER:** No objection.

04:44PM 10 **THE COURT:** Received without objection.

04:44PM 11 **(GOV Exhibit 209 was received in evidence.)**

04:44PM 12 **BY MR. TRIPI:**

04:44PM 13 Q. And was that your 55th birthday?

04:44PM 14 A. It was, yes.

04:44PM 15 **MR. TRIPI:** I'm holding it up for the jury so they
04:44PM 16 can see it, Your Honor.

04:44PM 17 **BY MR. TRIPI:**

04:44PM 18 Q. Did the manner in which the defendant was acting towards
04:44PM 19 you during that time period concern you?

04:44PM 20 A. Yes. It was erratic. It wasn't of the norm. Popping
04:44PM 21 up, I felt like he was following me.

04:44PM 22 Q. Did you decide you were gonna stop minimizing and trying
04:44PM 23 to protect yourself and the defendant?

04:44PM 24 A. Yes.

04:44PM 25 Q. In a few moments, I'm going to be done asking you

04:45PM 1 questions. I expect the defense is going to get up here and
04:45PM 2 ask you some questions claiming that you and Masecchia stole
04:45PM 3 Serio's money all those years and never gave any of it to the
04:45PM 4 defendant. Is that true or false?

04:45PM 5 A. That's false.

04:45PM 6 Q. Explain how false that is.

04:45PM 7 A. It's false because it happened. It's false because the
04:45PM 8 money was being used to help his lifestyle, going out, taking
04:45PM 9 trips, buying clothes. It's all false.

04:45PM 10 Q. Was the information the defendant providing to you
04:45PM 11 helpful to your organization?

04:45PM 12 A. Yes, very.

04:45PM 13 Q. Did you see some records here in court of a real
04:45PM 14 informant that the defendant told you about?

04:45PM 15 A. Yes.

04:45PM 16 Q. Based on your discussions with the defendant and your
04:46PM 17 discussions with Masecchia, was there any question in your
04:46PM 18 mind that this defendant was getting paid?

04:46PM 19 A. 100 percent, yes.

04:46PM 20 Q. 100 percent he was?

04:46PM 21 A. He was getting paid, yes. No question.

04:46PM 22 Q. Based upon the information the defendant was providing,
04:46PM 23 were you, Masecchia, and Serio, and others in the
04:46PM 24 organization relying on him?

04:46PM 25 A. Yes.

04:46PM 1 Q. Was Serio making money for everybody?

04:46PM 2 A. He was.

04:46PM 3 Q. Was he good at making money for everybody?

04:46PM 4 A. He was.

04:46PM 5 Q. Did you feel like the information the defendant was
04:46PM 6 giving you was helpful and specific?

04:46PM 7 A. Yes.

04:46PM 8 Q. Did you make people aware of the information, Masecchia
04:46PM 9 specifically, to tell Serio of the information the defendant
04:46PM 10 passed to you?

04:46PM 11 A. Yes.

04:46PM 12 Q. After a while, the defendant receiving \$2,000 per month,
04:46PM 13 did he start complaining that he should get more money?

04:46PM 14 A. Yes.

04:46PM 15 Q. Did that confirm for you that he was, in fact, getting
04:46PM 16 paid?

04:46PM 17 A. It did confirm, yes.

04:47PM 18 Q. Did the defendant stress less about his financial
04:47PM 19 situation after he started accepting bribes?

04:47PM 20 **MR. SINGER:** Objection, asked and answered.

04:47PM 21 **THE COURT:** Sustained.

04:47PM 22 **BY MR. TRIPI:**

04:47PM 23 Q. If the defendant wasn't getting paid, do you believe he
04:47PM 24 had enough information to bust you and all of you whenever he
04:47PM 25 wanted?

04:47PM 1 A. Yes.

04:47PM 2 **MR. SINGER:** Objection, asked and answered.

04:47PM 3 **MR. TRIPI:** That's not.

04:47PM 4 **THE COURT:** Overruled, no.

04:47PM 5 **THE WITNESS:** At any time. At any time we could have
04:47PM 6 went down.

04:47PM 7 **BY MR. TRIPI:**

04:47PM 8 Q. In 2009?

04:47PM 9 A. In 2009, '10, '11, yes.

04:47PM 10 Q. In '12?

04:47PM 11 A. '12.

04:47PM 12 Q. '13?

04:47PM 13 A. '13.

04:47PM 14 Q. '14?

04:47PM 15 A. '14.

04:47PM 16 Q. '15?

04:47PM 17 A. Any time, between that timeframe.

04:47PM 18 Q. '15?

04:47PM 19 A. '15.

04:47PM 20 Q. '16?

04:47PM 21 A. '16.

04:47PM 22 Q. '17?

04:47PM 23 A. '17.

04:47PM 24 Q. '18?

04:47PM 25 A. '18.

Q. '19?

A. '19.

MR. TRIPI: No further direct.

THE COURT: Okay. We're going to break for the day
now.

(Excerpt concluded at 4:47 p.m.)

* * * * *

CERTIFICATE OF REPORTER

In accordance with 28, U.S.C., 753(b), I
certify that these original notes are a true and correct
record of proceedings in the United States District Court for
the Western District of New York on August 28, 2024.

s/ Ann M. Sawyer

Ann M. Sawyer, FCRR, RPR, CRR
Official Court Reporter
U.S.D.C., W.D.N.Y.

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